

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF QUEENS: CRIMINAL TERM: PART K-20

3 -----x Indictment No.
4 THE PEOPLE OF THE STATE OF NEW YORK : 2147/2006

5 -against-
6 ABU KHAN

7 Defendant

8 March 16, 19, 20, 21, 22,
9 26, 27, 28, 29 of 2007
10 125-01 Queens Boulevard
11 Kew Gardens, New York 11415

12 B E F O R E:

13 THE HONORABLE RONALD HOLLIE,
14 Justice

15 A P P E A R A N C E S:

16 Honorable Richard A. Brown
17 For the People:
18 District Attorney - Queens County
19 125-01 Queens Boulevard
20 Kew Gardens, New York 11415
21 BY: MINA MALIK, ESQ.
22 Assistant District Attorney

23 For the Defendant:
24 ROBERT JOHNSTON, ESQ.
25 Defense Counsel

CK/165/07 Viola L. Dunnom, SCR

1 COURT CLERK: Calendar 1. Indictment

2 2147 of 2006. Abu Khan. On for trial.

3 MS. MALIK: For the People ADA Mina

4 Malik.

5 MR. JOHNSTON: Robert H. Johnston for Mr.

6 Abu Khan.

7 THE COURT: Good morning Mr. Johnston.

8 MR. JOHNSTON: Yes.

9 THE COURT: Counsel please approach.

10 (Whereupon, an off the record discussion
11 was held at the bench.)

12 THE COURT: We have just had a bench
13 conference Mr. Khan. You should know that one of
14 the things that I do, first of all Mr. Khan my name
15 is Judge Hollie, this case has been sent to this
16 part for trial. Ms. Malik is this case being moved
17 to trial.

18 MS. MALIK: Yes your Honor.

19 THE COURT: And so Mr. Khan prior to trial
20 what I do is make it a practice of inquiring of both
21 counsel what this case is about as far as the
22 allegations are concerned and also to make a
23 judgement as to how much time would be needed to try
24 the case.

25 And that is the reason that I was having

1 a bench conference with both your lawyer and Ms.
2 Malik. This case will be adjourned to 10 AM Monday
3 morning. At that point there will be further
4 argument made on the trial issues that exist in this
5 case.

6 Counsel on Monday morning also I will
7 have you talk to your client about waiving his
8 Antommarchi waiver. And Al if you can give him the
9 form now.

10 MR. JOHNSTON: Can I have a minute judge.

11 THE COURT: Sure.

12 MR. JOHNSTON: Judge, I have discussed
13 the matter with my client. He is going to waive
14 those rights that he has.

15 THE COURT: Mr. Khan have you had a chance
16 to read that form.

17 MR. JOHNSTON: Yes. I have explained it
18 to him, judge.

19 THE COURT: Well, I just want Mr. Khan
20 to, he has read it also. Okay.

21 MR. JOHNSTON: Yes, sir.

22 THE COURT: All right. Mr. Khan I have in
23 my hands this form that is called a waiver of the
24 defendants presence at voir dire side-bar
25 conferences. Have you had a chance to read this

1 form.

2 THE DEFENDANT: Yes.

3 THE COURT: If there is anything on the
4 form that you did not understand did you have an
5 opportunity to discuss this with your attorney
6 sitting next to you.

7 THE DEFENDANT: Yes.

8 THE COURT: The court finds that there
9 is a knowing and intelligent waiver of the
10 defendants right to be present at side-bar
11 conferences. I am noting that with my signature on
12 the bottom of this form.

13 Okay. There being nothing further that
14 needs be done today this matter is adjourned to 10
15 AM Monday morning on the 19th. Same bail
16 conditions.

17 (Whereupon, matter is adjourned to March
18 19, 2007 at 10 AM).

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1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF QUEENS: CRIMINAL TERM: Part K-20

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5 -against-

6 | Page

7 | ABU KHAN

9 _____ X

15 | APPEARANCES:

16 Honorable Richard A. Brown
17 For the People:
18 District Attorney - Queens County
19 125-01 Queens Boulevard
Kew Gardens, New York 11415
BY: MINA MALIK, ESQ.
Assistant District Attorney

21 For the Defendant:
ROBERT JOHNSTON, ESQ.
Defense Counsel

24 Viola L. Dunnom, SCR

1 COURT CLERK: Calendar 3 case on trial.

2 Indictment 2147 of 06. Abu Khan.

3 MS. MALIK: Mina Malik for the People.

4 MR. JOHNSTON: Robert Johnston.

5 MR. VIRUET: Samuel Viruet. Co-counsel

6 for Mr. Khan.

7 THE COURT: Mr. Khan is now also present.

8 Mr. Khan your lawyer Mr. Viruet, co-counsel has
9 asked that he sit at counsel table with you is that
10 okay with you.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: This matter has been on the
13 calendar to handle any other pre-trial issues that
14 are present in this case. Ms. Malik.

15 MS. MALIK: Yes, your Honor. Your Honor
16 in this case I would be asking to introduce evidence
17 of the rapes that are alleged to have occurred in
18 Florida. Right now the defendant is facing these
19 charges here in New York. But he also has I believe
20 counts of sexual battery in Florida and there is a
21 detainer on the defendant in this case.

22 And those acts involve the complaining
23 witness in this case as well as her younger brother
24 Jaeshawn Benn.

25 With respect to the acts in Florida and

1 the complainant in this case Ashley Martinez I would
2 be asking to introduce the evidence of those rapes.
3 I have a case for you your Honor.

4 THE COURT: And the reason that you
5 would be asking to use the Florida cases is what.

6 MS. MALIK: Well, in this particular case
7 in our case here in New York the incident stems from
8 1997 to 2000 and then there is a break in the
9 incident ostensibly because the family moves down to
10 Florida where the acts and the sexual abuse
11 continues in Florida. So the rapes in this case
12 pickup on November 30, 2004 when the defendant is
13 charged in that incident even though there is a
14 break from 2000 to 2004.

15 So I would be seeking to introduce it to
16 show the pattern of escalating sexual conduct to
17 Martinez prior to this charged rape. Because there
18 is such a long break between 2000 and 2004 I think
19 that the jury is going to be left to speculate that
20 does not make any sense if he is abusing her until
21 -- from the time that -- of 5 to 6 years old.
22 What happened in 2004 when he commits the crime of
23 rape on November 30 of 2004. I think that it's
24 background information.

25 It explains the relationship between the

1 defendant and the complainant. It places the event
2 in question in a believable context.' I would like to
3 hand up to the Court People versus Juan Rosario. 34
4 Appellate Division. 3rd. 370. Which was decided
5 November 28 of 2006. I am also handing one over to
6 defense counsel. And in this particular case the
7 People versus Juan Rosario the court properly
8 scrutinized evidence relating to the defendants
9 pattern of escalating conduct to wit; the child
10 victim prior to the charged crime. The court found
11 that the evidence had little prejudicial effect and
12 it was to explain the relationship between the
13 defendant and the victim and to place the events in
14 question in a believable context.

15 Particularly since the defendant in this
16 case made a major issue of the victims delay in
17 reporting the charge of criminal conduct. I suspect
18 that the defense in this case is going to make a
19 big deal with that issue, the delay in reporting
20 because the actual outcry was not until April of
21 2006.

22 THE COURT: When was the acts that you say
23 occurred in Florida what were the years in which the
24 acts occurred in Florida.

25 MS. MALIK: I do not have the specific

1 date right now.

2 THE COURT: You are saying that those
3 dates are prior to the November 2004 incident for
4 which the defendant stands charged in this case.

5 MS. MALIK: Absolutely it's my
6 understanding that the November 2004 incident was
7 the last time that anything ever happened.

8 THE COURT: Now, in these years from 1997
9 through November of 2004 was the defendant and the
10 victim living in the same household.

11 MS. MALIK: One moment your Honor. Yes,
12 your Honor between 1997 and 2004 they were living in
13 the same household. There are instances of time
14 where the defendant left Florida to come up to New
15 York to work. So there are periods of time. But for
16 all intents and purposes they were living in the
17 same household both here and New York and in
18 Florida.

19 THE COURT: And what is the relationship
20 of the defendant to the complainant.

21 MS. MALIK: The defendant was the
22 complainant mother's boyfriends.

23 THE COURT: You also asked that you use
24 -- that you be allowed to use a complaint filed
25 in Florida involving this defendant and a son, a

1 boy.

2 MS. MALIK: I am not seeking to go
3 into -- I am not seeking to go into the allegations
4 involving the son.

5 THE COURT: All right.

6 MS. MALIK: And my understanding that the
7 defendant has not been formally charged in Florida.
8 There was a detainer here. He has not been indicted
9 or arrested on those charges in Florida.

10 THE COURT: Okay. Mr. Johnston.

11 MR. JOHNSTON: Yes judge it's our opinion
12 and I have some cases for the court that that type
13 of testimony is totally unnecessary in this
14 particular case. And that the only thing that such
15 evidence would do would totally prejudice the jury
16 and the prejudice would totally out weigh any
17 probative value to the issues that are concerned in
18 this particular case.

19 Of course the prosecutor could bring out
20 the fact that from 2000 to 2004 the defendant was
21 down in Florida living with the complainants mother
22 and the complainant without going into any details
23 about any allegations of sexual misconduct. And
24 then he came back to New York and the girl came up
25 to New York to stay with her grandparents. And they

1 were in the same location staying at the same house
2 for all of one day. So the continuity issue could
3 be satisfied without going into the nuts and bolts
4 of allegations of sexual misconduct in Florida.

5 And as I indicated to the court I think
6 that that would unduly prejudice my client and his
7 ability to get a fair trial. The question then
8 remains well what if the defendant takes the witness
9 stand. Would the prosecutor be allowed to ask him
10 questions about allegations of sexual abuse in
11 Florida.

12 Regarding the Sandoval issues and again I
13 would indicate to the court it's the defendants
14 position although he could simply deny it that even
15 the asking of those types of questions would be
16 overly prejudicial and would deprive him of a fair
17 trial and especially since the matter in Florida
18 although there is a detainer he has not been
19 arrested on those matters. He has not been indicted
20 on those matters. And Florida has just filed a
21 detainer to bring him to Florida when this case
22 terminated. So I would indicate to the court that we
23 will be opposed to that type of testimony.

24 THE COURT: It would seem to be just on
25 the surface you know referencing those matters in

1 Florida is there any reason Ms. Malik to mention
2 that there is a detainer that Florida has lodged
3 against the defendant its mmerely that there were
4 acts with which the defendant is facing charges for
5 in Florida as opposed to a mechanism that Florida
6 has a procedure that Florida has filed with this
7 state to bring the defendant back do you follow my
8 question.

9 MS. MALIK: I think so your Honor. I
10 don't think that -- I think that I am seeking to go
11 into just the acts themselves that this was a
12 continuing sexual abuse pattern that went on in
13 Florida as well. I do not see any reason to
14 mention.

15 THE COURT: And that there were no
16 charges filed against him. Has she in fact filed
17 charges for those acts against the defendant in
18 Florida.

19 MS. MALIK: Yes she made a police report
20 your Honor.

21 THE COURT: So the -- you are not
22 requesting to go into the fact that the Florida
23 authorities have filed a detainer against him only
24 that she in Florida has filed a complaint against
25 the defendant in Florida for what she says that he

1 did to her in Florida.

2 MS. MALIK: Yes your Honor.

3 THE COURT: What is the nature of the acts
4 that she is saying happened in Florida relative to
5 the charges that the defendant is facing here.

6 MS. MALIK: That he raped her in Florida
7 as well when she was living there with him.

8 THE COURT: This indictment does it also
9 -- I do not have it in front of me it also goes
10 back to incidents that occurred between 1997 and
11 2000.

12 MS. MALIK: That's correct your Honor.
13 Those incidents are for 2 or more acts of sexual
14 conduct between January first of 1997 and December
15 31 of 2000 where the defendant touched her breasts
16 and had -- made her touch his penis when the
17 complaining witness was less than 11 years old. And
18 those acts encompassed the course of conduct in the
19 second degree as well as the sex abuse 2 on this
20 indictment.

21 THE COURT: All right. It appears to me
22 and my ruling is that the application by the People
23 to be able to go into the allegations that the
24 victim had made the so called victim in this case
25 had made against the defendant in Florida those

1 occasions being prior to this 11/2004 date I will
2 allow but will not allow the People to mention the
3 fact that Florida has filed a detainer against the
4 defendant for those alleged crimes.

5 I would give a curative instruction to
6 the jury counsel if you wish on that issue that the
7 defendant is not here being charged with those
8 crimes. It's only being offered for a limited
9 purpose of showing a pattern that would explain the
10 gap in time between the year 2000, year in New York
11 and the new complaint in New York that was filed in
12 November of 2004. Any questions.

13 MR. JOHNSTON: No judge. Just as I
14 indicated we will object to that testimony.

15 THE COURT: Exception noted.

16 MR. JOHNSTON: And the only other thing
17 judge is that in the way of housekeeping I read the
18 hospital or the doctors report on the examination of
19 Ashley Martinez by a Dr. Rosenfeld that was done in
20 June of 2006. In that interview that she had with
21 her to find out exactly what she claimed happened
22 there is language that indicates that Ashley the
23 girl said that or told the doctor that the accused
24 had also sexually abused her brother which the DA
25 has agreed not to go into those allegations. His

1 name is Jaeshawn Benn. J-A-E-S-H-A-W-N B-E-N-N.

2 So I would ask that if the People intend
3 to offer these medical records in evidence that
4 those words about the accusation against the
5 defendant regarding Jaeshawn Benn that they be
6 redacted from any medical records since the DA has
7 agreed not to go into those matter.

8 THE COURT: Agreed Ms. Malik.

9 MS. MALIK: Yes your Honor.

10 THE COURT: Also is there any time where
11 the acts are alleged to have been committed where
12 the brother was present or any other child was
13 present, acts against the victim in this case.

14 MS. MALIK: Not in New York your Honor.

15 THE COURT: All right. And so the
16 brother is not an outcry witness. He is not
17 directly involved in any of these acts that the
18 defendant is being accused of in this trial.

19 MS. MALIK: At this point I do not
20 anticipate calling him as a witness in this trial.

21 THE COURT: Anything else.

22 MR. JOHNSTON: No your Honor.

23 MS. MALIK: Your Honor, I do have another
24 application in terms of introducing evidence. I
25 would be asking the court to allow the People to

1 introduce evidence of the defendants prior physical
2 and verbal abuse of the complainant witnesses
3 mother. The reason being Ashley Martinez when she
4 was a young girl witnessed the defendant being both
5 physically and exhibiting abusive behavior to her
6 mother in terms of slapping her, pushing her,
7 knocking her down.

8 As well as verbally abusive calling her
9 dumb. Fat. Stupid. Telling her to shut up. Saying
10 that nobody wanted her because she already had 4
11 kids and she was fat. The complainant witness was
12 also verbally abused by the defendant. I would be
13 asking to go into those facts because I think that
14 it goes to her state of mind. It's relevant to show
15 why she did not outcry for such a long time. Was
16 living not living in an environment where she knew
17 what the defendant was capable of especially after a
18 day or night of drinking when he got physically
19 abusive towards her mother and verbally abusive
20 towards her mother.

21 THE COURT: These are questions that you
22 would want to pose to the victim.

23 MS. MALIK: To the victim as well as to
24 the mother your Honor. And I do have a case for the
25 court as well I will hand one over to defense

1 counsel.

2 THE COURT: I can understand those
3 questions of the child but why the mother.

4 MS. MALIK: I anticipate that the mother
5 is going to be called as a witness your Honor. And
6 I think that she should be allowed to testify to
7 that. That this was the kind of relationship that
8 they had later on in their relationship.

9 THE COURT: Later on meaning in the
10 years of 1997 through 2000 or around November of
11 2004.

12 MS. MALIK: I would say about the end of
13 1998 and on.

14 THE COURT: I have no questions as to the
15 child. Those questions being asked as to the child.
16 And Mr. Johnston what is your sense as to the People
17 being allowed to ask those questions of either the
18 child or the child's mother.

19 MR. JOHNSTON: I don't know judge. This
20 was a surprise. I am caught a little off guard.
21 Could I think about this for a few minutes.

22 THE COURT: Sure.

23 (Whereupon, there is a pause in the
24 proceedings.)

25 MR. JOHNSTON: Judge I just want to put

1 this a little bit in prospective. The defendant
2 returned to Florida from Queens on December first.
3 Apparently.

4 THE COURT: December first of.

5 MR. JOHNSTON: Of 2004. Apparently they
6 did have some problems between the 2 of them.

7 THE COURT: Mr. Khan and the girl's
8 mother.

9 MR. JOHNSTON: And Leslie Martinez the
10 mother. He came back to the house on December 10th
11 around 5 in the morning and found her in bed with
12 another man. That incident escalated and the police
13 were called.

14 According to my client that is the only
15 time that there was any police involvement or any
16 sort of situation that could be considered physical
17 or difficult. I asked him if he had any problem
18 with Leslie during all the years that they met or
19 were living together. He said no. I am assuming
20 that from what the DA said that the mother Leslie is
21 going to testify that during the relationship that
22 there was not only physical abuse but verbal abuse.
23 That's why I was caught off guard.

24 He told me that there was one incident in
25 Florida what he caught her in bed with another

1 person. If I am right that Leslie is going to say
2 that there was a course of conduct during their
3 relationship of physical and verbal abuse I guess it
4 has some relevance to the issues that we are
5 involved in here. Or at least the child might have
6 some relevance as a reason why she didn't report
7 right away these allegations of sexual abuse and
8 rape.

9 THE COURT: Approach please.

10 (Whereupon, an off the record discussion
11 was held at the bench.)

12 THE COURT: Okay Ms. Malik based on the
13 application that you have made to inquire of the
14 victim in this case the reason why she had withheld
15 notifying the authorities of these past attacks and
16 those reasons include any observations that they
17 made as to what has been happening in the house
18 between her mother and the defendant over the course
19 of how many months or years that over the objection
20 of the defense that information can be asked of the
21 victim in this case.

22 As to the mother are you still asking at
23 this point that you will be allowed to call her as a
24 witness to that violence on your direct case.

25 MS. MALIK: I am going to withdraw that

1 application at this time your Honor. I am going to
2 ask that if I can look into case law regarding that
3 specific issue that we be able to go back into that
4 again for me to reargue it.

5 THE COURT: Okay. After side-bar I have
6 given an extension on consent to the People until
7 Wednesday to find out more about what happened in
8 that Florida matter as far as the car rental case.
9 And if I believe that there is a Sandoval
10 application that is to be made relative to that case
11 they have until Wednesday to make that issue clear
12 to me. Anything else prior to bringing over the
13 panel.

14 MR. JOHNSTON: No.

15 MS. MALIK: No your Honor.

16 THE COURT: All right. Well, it's now
17 12:15 Al. I don't know if we can do anything prior
18 to lunch other than bring them into the building
19 even if that. What is your sense.

20 THE COURT: All right. It's 12:15. After
21 speaking at side-bar with all counsel and my staff
22 this is a very difficult day as far as this
23 courthouse is concerned with a lot of people and
24 press around on an unrelated case. As far as
25 expeditiously processing a panel both into the

1 building and into this part it could probably be
2 best accomplished this afternoon at 2:30.

3 So counsel I will send my staff to get
4 the panel at 2:15. It may take them a half hour or
5 so to get them here. If you can reassemble at 3
6 o'clock this afternoon. Thank you.

7 (Whereupon, a brief recess was taken.)

8 COURT CLERK: Recall calendar 3 case on
9 trial indictment 2147 of 06. Abu Khan.

10 THE COURT: All counsel are present as is
11 the defendant outside the presence of the panel. As
12 you may have learned we found it impossible to get a
13 panel over to this building today. That's been this
14 parts experience. So this matter is put over to 10
15 AM tomorrow morning. We will have the panel brought
16 over as soon in the morning as possible.

17 MR. JOHNSTON: Thank you your Honor.

18 MS. MALIK: Thank you your Honor.

19 THE COURT: Same bail conditions.

20 (Whereupon, matter is adjourned to March
21 20, 2007 at 10 AM).

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2 COUNTY OF QUEENS: CRIMINAL TERM: Part K-20
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15 A P P E A R A N C E S:

16 Honorable Richard A. Brown
17 For the People:
18 District Attorney - Queens County
19 125-01 Queens Boulevard
Kew Gardens, New York 11415
BY: MINA MALIK, ESQ.
Assistant District Attorney

21 For the Defendant:
ROBERT JOHNSTON, ESQ.
Defense Counsel

24 *Viola L. Punnett, SCB*

1 COURT CLERK: Calendar 1 case on trial.

2 Indictment 2147 of 2006. Abu Khan.

3 COURT OFFICER: Prospective jurors

4 entering.

5 COURT CLERK: Please rise. Raise your
6 right hand. Do you solemnly swear or affirm that
7 you will answer truthfully all questions asked of
8 you pertaining to your qualifications as fair and
9 impartial jurors in the trial of this indictment so
10 help you God?

11 (Whereupon, yes is answered by all).

12 COURT CLERK: So sworn. You may be
13 seated.

14 THE COURT: Good morning and welcome to
15 Part K-20. I am Ronald D. Hollie. I am the justice
16 of the supreme court who has been assigned to in
17 this jurisdiction in this criminal case. The name
18 of this case is the People of the State of New York
19 against Abu Khan. We select a juror by asking
20 prospective jurors questions. The purpose of the
21 questions is to select from among you a jury which
22 will be fair and impartial to the defendant and to
23 the State of New York.

24 The purpose of the questions is not to
25 -- I lost my thought on this matter. We select a

The purpose of questions is not to
embarrass or unnecessarily pry into any private
areas of your lives. The jury selection process is
often called voir dire. That is a french term that
means to speak the truth. You must give a truthful
answer. If you are uncomfortable giving a truthful
answer in open court you may ask for what is called
a side-bar.

14 At that point I will invite you to
15 approach and share your answer with me and the
16 attorneys out of the hearing of the other
17 prospective jurors.

18 In this case the State of New York
19 against Abu Khan the People in this case are
20 represented by Ms. Malik who is an ADA in the Queens
21 DA office. Ms. Malik.

22 MS. MALIK: Good morning ladies and
23 gentlemen.

24 THE COURT: The defendant is Abu Khan and
25 he is represented by his attorneys Mr. Samuel Viruet

1 and Mr. Robert Johnston.

2 MR. VIRUET: Good morning.

3 MR. JOHNSTON: Good morning.

4 THE COURT: Now again we are here because
5 the defendant has been indicted. Meaning that he
6 has been charged by a Queens Grand Jury with several
7 crimes. He has been charged with 4 separate crimes.
8 Each of those crimes are listed as a separate count
9 of an indictment. And what I will do is read that
10 indictment to you now. And again each count
11 represents a charge that the defendant is here being
12 -- is here facing trial for.

13 In the first count the Grand Jury of the
14 county of Queens by this indictment accuse the
15 defendant of the crime of rape in the first degree
16 committed as follows.

17 Okay the first count, the Grand Jury of
18 the county of Queens by this indictment accuse the
19 defendant of the crime of rape in the first degree
20 committed as follows.

21 That the defendant Abu Khan on or about
22 November 30th in the year of 2004 in the county of
23 Queens being 18 years old or more engaged in sexual
24 intercourse with Ashley Martinez a person less than
25 13 years old.

1 In the second count the Grand Jury of the
2 county of Queens by this indictment accuse the
3 defendant of the crime of sexual conduct against a
4 child in the second degree committed as follows.

5 That the defendant Abu Khan on or about
6 between January 1, 1997 and December 31, 2000 in the
7 county of Queens over a period of time not less than
8 3 months of duration knowingly and intentionally
9 engaged in 2 or more acts of sexual conduct to wit;
10 the defendant did place his hands on the breasts and
11 place his penis in the hands of Ashley Martinez a
12 child less than 11 years old.

13 And in the third count the Grand Jury of
14 the county of Queens by this indictment accuse the
15 defendant of the crime of endangering the welfare of
16 a child committed a follows.

17 That the defendant on or about November
18 30 of 2004 in the county of Queens knowingly acted
19 in a manner likely to be injurious to the physical,
20 mental or moral welfare of Ashley Martinez a child
21 less than 17 years old.

22 And the fourth count the Grand Jury of
23 the county of Queens by this indictment accuse the
24 defendant of the crime of sexual abuse in the second
25 degree committed as follows.

1 That the defendant on or about November
2 30 of 2004 in the county of Queens subjected Ashley
3 Martinez a person less than 14 years old to sexual
4 contact by touching the breasts of Ashley Martinez
5 with the hands of the defendant.

6 What will happen at this point is that
7 the court clerk Mr. Al Blake will randomly draw the
8 names of 14 prospective jurors. They will be seated
9 in the box to my right. Questioning will be asked to
10 the jurors in the jury box. They will be loud
11 enough for you to hear. Now, before jury selection
12 is over many if not all of you will be called to the
13 jury box and asked similar questions. I want to
14 thank you in advance for your willingness to serve
15 as jurors in this criminal case. I know that it's a
16 sacrifice to be here. I want you to know that you
17 honor our constitution and form of government when
18 you allow yourself to be included in a process in
19 which a person accused of a crime can exercise his
20 right to have a trial before a jury of his peers.

21 COURT CLERK: Juror number one, Ling Ma.
22 Last name, M-A. First name Ling, L-I-N-G. Juror
23 number 2, Jae Kim. Last name, K-I-M. First name
24 Jae, J-A-E. Juror number 3, Jue Bao. Last name,
25 B-O-A. First name Jue, J-U-E. Juror number 4, Danny

1 Lam. Last name, L-A-M. First name Danny,
2 D-A-N-N-Y.

3 Juror number 5, Shalou Lee. Last name,
4 L-E-E. First name Shalou, S-H-A-L-O-U. Juror
5 number 6, Kevin Burgos. Last name, B-U-R-G-O-S.
6 First name Kevin, K-E-V-I-N. Juror number 7 Fay
7 Gooding. Last name G-O-O-D-I-N-G. First name Fay,
8 F-A-Y.

9 Juror number 8, Chang Kim. Last name,
10 K-I-M. First name Chang, C-H-A-N-G. Juror number
11 9, Lucy Am. Last name A-M. First name Lucy,
12 L-U-C-Y. Juror number 10 Benneett Roth. Last name
13 Roth. R-O-T-H. First name, Bennett, B-E-N-N-E-T-T.

14 Juror number 11, Carolia Zarzabal. Last
15 name, Z-A-R-Z-A-B-A-L. First name, Carolia,
16 C-A-R-O-L-I-A. Juror number 12, Norman Choy. Last
17 name, C-H-O-Y. First name, Norman. N-O-R-M-A-N.
18 Juror number 13, Edward Aguirre. Last name,
19 A-G-U-I-R-R-E. First name, Edward. E-D-W-A-R-D.
20 Juror number 14, Bobby Fletcher. Last name,
21 Fletcher, F-L-E-T-C-H-E-R. First name Bobby,
22 B-O-B-B-Y.

23 THE COURT: Good morning again. Now folks
24 the first series of questions that I have of you
25 have nothing to do with the questionnaire in your

1 hands. It's questions that I will ask you from here.
2 And since I am looking at 14 faces and need an
3 answer from each of you then I will need you each to
4 give me a loud yes, no answer or if you wish move
5 your heads up and down for yes or sideways for no.

6 Lets go with the easy, that is the
7 easiest. Is it fair to say that you are each over
8 18 years old. Are you each residents of Queens
9 county and citizens of this country. Have either of
10 you ever been convicted of a felony. Are you each
11 able to read and understand and speak English. Mr.
12 Kim. All right I have 2 Kim's.

13 A PROSPECTIVE JUROR: Not too much.

14 THE COURT: There was a look on your
15 face like you were not understanding everything that
16 I was saying. Yes, Mr. Kim.

17 A PROSPECTIVE JUROR: Sometimes I do not
18 understand.

19 THE COURT: So there were things that I
20 have said so far that while you heard me you did not
21 quite understand everything that I said and did you
22 have a chance to read that form.

23 A PROSPECTIVE JUROR: On the 11 questions
24 I understand. The rest of them --

25 THE COURT: I understand. So I will

1 excuse both Kims. Thank you. Ms. Lee.

2 A PROSPECTIVE JUROR: Also I couldn't
3 complete the whole thing. There are some parts I do
4 not really understand.

5 THE COURT: Now and Ma'am you are Ms.
6 Lee.

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: Is it that you did not
9 understand the words or did not understand the
10 concept.

11 A PROSPECTIVE JUROR: The concept. And
12 some words I do not understand stand. The way that
13 you saying right now I understand. Just afraid that
14 I can go through the whole process.

15 THE COURT: What we will do is that
16 because you understand the words but not necessarily
17 concepts once we reach those questions if you still
18 do not understand the concept let me know then. And
19 I ask you if the question, if there is any question
20 that I ask that you do not understand please raise
21 your hand and let me know. Anyone else. Yes Ms.
22 Bao.

23 A PROSPECTIVE JUROR: Maybe I only can
24 catch some of your words.

25 THE COURT: So there are words that you

1 understand but some words that you don't.

2 A PROSPECTIVE JUROR: Many words.

3 THE COURT: Counsel consent.

4 MR. JOHNSTON: Yes.

5 MS. MALIK: Yes.

6 THE COURT: Thank you Ms. Bao. I will
7 excuse you Ms. Bao from this case. Everyone else is
8 fine. Juror number 3.

9 COURT CLERK: Juror number 3, Barbara
10 Stanford. Last name, S-T-A-N-F-O-R-D. First name
11 Barbara, B-A-R-B-A-R-A. Juror number 2, Isaura
12 Arteaga. Last name, A-R-T-E-A-G-A. First name,
13 Isaura, I-S-A-U-R-A. Juror number 8, Pamela
14 Browne. Last name Browne, B-R-O-W-N-E. First name
15 Pamela. P-A-M-E-L-A.

16 THE COURT: Okay these questions are for
17 Ms. Arteaga, Ms. Stanford and Ms. Brown just to
18 bring you three ladies up to where I am with the
19 others. Are you each over 18 years old. Residents of
20 Queens county. Citizens of this country. Have
21 either of you been convicted of a felony. Are you
22 able to read understand and speak English.

23 THE COURT: Back to the entire panel.

24 Do you know me, the ADA, defendant or defense
25 counsel or to your knowledge any of our family or

1 friends.

2 PROSPECTIVE JURORS: No.

3 THE COURT: There are several people who
4 may testify at this trial. I will read those names
5 now. Those names include Ashley Martinez, Leslie
6 Martinez, Ann Martinez, Jaeshawn Benn, B-E-N-N.

7 Jean Swaby. S-W-A-B-Y. Dr. Jamie
8 Hoffman-Rosenfeld. Dr. Don Lewittes. Detective Luz
9 Figueroa. Do either of you know anyone by those
10 names.

11 PROSPECTIVE JURORS: No.

12 THE COURT: Now Mr. Choy I did not see any
13 movement or hear your voice.

14 A PROSPECTIVE JUROR: I said no.

15 THE COURT: This crime is alleged to have
16 occurred the 2 areas are 121st Street in College
17 Point Queens and in Ozone Park Queens. Relative to
18 the College Point address meaning 121st Street. Do
19 either of you know the area.

20 PROSPECTIVE JURORS: No.

21 THE COURT: This trial we fully expect to
22 be over at least by Friday March 30th so it's
23 relatively a short trial as far as time commitment
24 is concerned. I say that to now ask you these
25 questions. Do either of you have any hearing

1 handicap or any other type of disability that would
2 prevent you from sitting as a juror to the latest
3 Friday March 30th.

4 PROSPECTIVE JURORS: No.

5 THE COURT: Do you have any extreme
6 hardship or other matter that would prevent you from
7 giving your full attention during the trial.

8 A PROSPECTIVE JUROR: I have a state
9 board exam coming up.

10 THE COURT: When.

11 A PROSPECTIVE JUROR: Right now I do not
12 have a date.

13 THE COURT: If you do not have it by now
14 then I would think -- that is a state test.

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Normally they give you at
17 least 2 weeks notice.

18 A PROSPECTIVE JUROR: Yes.

19 THE COURT: So my guess is that that will
20 be beyond this trial.

21 A PROSPECTIVE JUROR: Okay.

22 THE COURT: Do any of you have any
23 religious or moral or ethical beliefs or reasons
24 that would prevent you from finding a person guilty
25 even if that guilt was proven to you beyond a

1 reasonable doubt.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Now I have noticed that as I
4 am asking more and more questions that your answers
5 have become more and more muted. It started first
6 with answers that I could hear. And then with every
7 successive question then your answers became lower
8 and lower and lower. More difficult to hear.

9 Mr. Aguirre you have had both a low voice
10 and also you have not had much in the way of a body
11 movement. So I am saying all of that please to say
12 that it's more helpful for me to know what your
13 answers are if you make that answer clear. So if
14 you want to yell the answers out to me that's fine
15 too.

16 Okay. So going over that last question
17 do any of you have any religious, moral or ethical
18 beliefs or reasons that would prevent you from
19 finding a person guilty even if that guilt were
20 proven to you beyond a reasonable doubt.

21 PROSPECTIVE JURORS: No.

22 THE COURT: Better. You may know, if
23 not you will learn now that any person who is
24 arrested and charged with a crime in this country
they have a right not to testify. And as I sit here

1 now I have no way of knowing whether or not Mr. Khan
2 will testify in this trial. And nor should I know
3 at this point in the trial. But I am letting you
4 know that he has a right not to testify. And I say
5 that to now ask you this question if Mr. Khan, if
6 you are chosen as a juror and if Mr. Khan chooses
7 not to testify would you each be able to follow my
8 instructions and not draw any inference unfavorable
9 to him because he clearly exercised his right not to
10 testify.

11 A PROSPECTIVE JUROR: Yes.

12 A PROSPECTIVE JUROR: I do not
13 understand.

14 THE COURT: Mr. Fletcher I did not see or
15 hear your answer.

16 A PROSPECTIVE JUROR: My answer is I
17 believe I could.

18 THE COURT: Okay. And Ms. Lee you are
19 saying that that question you did not understand.

20 A PROSPECTIVE JUROR: I do not understand
21 yes.

22 THE COURT: What I am saying is in that
23 question I am both giving you information and asking
24 a question. The information that I am giving is
25 letting you know that all of us if we were arrested

1 and charged with a crime in this country each of us
2 has a right not to testify in trial. That's a right
3 that we have as a citizen of this country. But if
4 you are chosen as a juror and if someone stood on
5 his or her right not to testify then the jury will
6 not be able to hold that against the person simply
7 because he stood on his right not to testify. And I
8 was asking whether or not you would be able to
9 follow my instruction and not hold it against him if
10 he chooses not to testify. But only base your
11 verdict on the evidence that you hear in this trial.
12 Can you each do that. Mr. Fletcher.

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: Yes Ms. Ma.

15 A PROSPECTIVE JUROR: I cannot follow
16 your instruction, the sentence.

17 THE COURT: Meaning that you understand
18 the concept but.

19 A PROSPECTIVE JUROR: I do not
20 understand.

21 THE COURT: Okay. Counsel consent.

22 MR. JOHNSTON: Yes.

23 MS. MALIK: Yes.

24 THE COURT: All right. Thank you Ms. Ma.
25 I will excuse you.

1 COURT CLERK: Juror number 1. Jennifer
2 Sandoval. Last name S-A-N-D-O-V-A-L. First name,
3 Jennifer. JENNIFER.

4 THE COURT: Ms. Sandoval the same
5 questions that I have asked everyone else so far.
6 Just to bring you up to speed. You are over 18
7 years old. A resident of Queens county. Citizen of
8 this country.

9 A PROSPECTIVE JUROR: Yes.

10 THE COURT: Every convicted of a felony.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Able to read and understand
13 and speak English.

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: Do you know me, the
16 defendant, defense counsel or the DA or any of our
17 family and friends.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Do you know any of the people
20 listed who may be witnesses.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: Do you have any handicap or
23 disability that would prevent you from serving
24 if chosen.

25 A PROSPECTIVE JUROR: No.

1 THE COURT: Do you have an extreme
2 hardship that would prevent you from giving your
3 full attention to the trial.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Do you have any religious,
6 moral or ethical beliefs or reasons that would
7 prevent you from finding a person guilty if that
8 guilt were proven to you beyond a reasonable doubt.

9 A PROSPECTIVE JUROR: Yes.

10 THE COURT: As to the defendants right
11 not to testify if you are chosen as a juror if he
12 chooses not to testify would you be able to follow
13 my instructions and not draw any inference
14 unfavorable to him simply because he chooses not to
15 testify.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Back to the entire panel.
18 There are times when crimes are committed when there
19 is only a single person present. That is the person
20 who is the alleged victim of that crime. So the law
21 is that if a juror believes a single witness to a
22 crime beyond a reasonable doubt that is enough to
23 convict.

24 There are some people who believe that
25 they cannot convict even if they believe a single

1 witness to a crime beyond a reasonable doubt because
2 it's only one person. So my question is if you
3 believe a single witness to a crime beyond a
4 reasonable doubt can you convict.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: Everyone understand the
7 question.

8 A PROSPECTIVE JUROR: Yes.

9 THE COURT: Ms. Lee.

10 A PROSPECTIVE JUROR: I understand your
11 question. I do not know how to answer yes or no. I
12 will say yes.

16 A PROSPECTIVE JUROR: I will say yes.

17 THE COURT: You don't have to say yes.

18 A PROSPECTIVE JUROR: All right. I am
19 choosing to say yes.

20 THE COURT: Because you feel yes is the
21 your answer.

22 A PROSPECTIVE JUROR: Yes.

1 child. And the defendant is an adult. Is there
2 anyone of you who because of the nature of the
3 charges feels that they cannot give all sides in
4 this case a fair trial. Yes, Ms. Sandoval.
5 Approach please.

(Whereupon, the following occurs at
side-bar with all counsel present)

A PROSPECTIVE JUROR: I was sexually abused when I was younger so for me it's very hard.

10 THE COURT: I understand. Counsel
11 consent.

12 MR. JOHNSTON: Yes.

13 MS. MALIK: Yes.

14 THE COURT: All right. Thank you. Ms.
15 Arteaga.

16 A PROSPECTIVE JUROR: Because I cannot
17 take that I have a bias.

18 THE COURT: Is it the nature of the
19 charges.

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: And why do you think that.

22 A PROSPECTIVE JUROR: Because I am going
23 to say that he is guilty.

24 THE COURT: So the mere idea that an
25 adult is charged with a sexual offense at trial you

1 don't think that you can give that adult a fair
2 trial.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Consent.

5 MR. JOHNSTON: Consent.

6 MS. MALIK: Yes.

7 THE COURT: And there was another hand.

8 Ms. Am.

9 A PROSPECTIVE JUROR: One of my best
10 friends she got raped a few years ago. She was
11 about at the time 17. And then I was the only
12 confidence at that time. And I told her to go to
13 the police. She was too afraid. Anyway she is
14 still living in this country. It really effected me
15 a lot.

16 THE COURT: All right. That person to
17 her was it a relative.

18 A PROSPECTIVE JUROR: No someone -- no.
19 Just a total stranger.

20 THE COURT: And she has told you that she
21 was so afraid that she wasn't willing to go to the
22 authorities and you are the one who talked to her.

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: And it effected you and her
25 obviously.

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: How long ago did this
3 happen.

4 A PROSPECTIVE JUROR: Just a couple of
5 years ago. And besides it's my major psychology. I
6 have seen and heard these cases a lot. So personally
7 I have a kind of bias. So I don't think that I am
8 proper for this.

9 THE COURT: All right. Counsel consent.

10 MR. JOHNSTON: Yes.

11 MS. MALIK: Yes.

12 THE COURT: Thank you. Each of these are
13 excused. And Mr. Burgos.

14 THE COURT: Yes.

15 A PROSPECTIVE JUROR: My mother was
16 sexually abused in the early part of her life. And
17 my current girlfriend was actually abducted coming
18 home from school about 4 years ago. And tried --
19 attempted to sexually assault her but she was able
20 to get away.

21 THE COURT: How did you learn about what
22 happened to your mother.

23 A PROSPECTIVE JUROR: She told me as I
24 got older.

25 THE COURT: So you are saying this is a

1 case in which because of what happened in the past
2 to your current girlfriend and your mother has
3 explained to you what happened to her in her youth
4 you do not think that you can be fair.

5 A PROSPECTIVE JUROR: I could be as fair
6 as possible.

7 THE COURT: Consent.

8 MR. JOHNSTON: Yes.

9 MS. MALIK: Yes.

10 THE COURT: Thank you for your candor I
11 will excuse you. So Mr. Burgos, Ms. Sandoval, Ms.
12 Arteaga and Ms. Am are each excused. And Brown
13 please approach.

14 A PROSPECTIVE JUROR: I am a mother of a
15 14 year old and a 16 year old.

16 THE COURT: Daughters.

17 A PROSPECTIVE JUROR: Yes I am a mother I
18 have 2 teenage daughters. I feel like if somebody
19 touches my daughters there is no second chance.
20 That's the way that I feel.

21 THE COURT: But in this case the
22 defendant is accused and we want to know whether or
23 not those feeling that you have are so strong that
24 you do not know if you will be able to be fair to
25 both sides.

1 A PROSPECTIVE JUROR: To be honest I
2 don't know if I can be fair to him to be honest.

3 THE COURT: All right. Consent.

4 MR. JOHNSTON: Yes.

5 MS. MALIK: Yes.

6 THE COURT: Thank you for your candor.

7 Ms. Brown is excused. And Ms. Lee approach please.
8 I want to sound her out to see if she is
9 understanding everything. I just want to know how
10 you are doing as far as understanding everything.

11 A PROSPECTIVE JUROR: I do not understand
12 the point. I do not want to be probably not afraid
13 of --

14 THE COURT: You're saying I think that
15 you grasp the concept, but you think that sometimes
16 the delay between hearing something and getting an
17 explanation you might miss out on something that is
18 important.

19 A PROSPECTIVE JUROR: Yes, I am afraid
20 that I misunderstand. Some words I guessing myself.

21 THE COURT: Understood. Counsel
22 consent.

23 MR. JOHNSTON: Yes.

24 MS. MALIK: Yes.

25 THE COURT: Okay. Thank you Ms. Lee. I

1 will excuse you. Ms. Lee is excused.

2 (Whereupon, a side-bar record concludes.)

3 COURT CLERK: Juror number 1, Abraham
4 Gottesnan. Last name, G-O-T-T-E-S-N-A-N. First
5 name Abraham, A-B-R-A-H-A-M. Juror number 2, Yet
6 Chang. Last name Chang, C-H-A-N-G. First name Yet,
7 Y-E-T. Juror number 5 Christina Curatolo. Last name
8 Curatolo, C-U-R-A-T-O-L-O. First name Christina,
9 C-H-R-I-S-T-I-N-A.

10 Juror number 6, Carol Gray. Last name
11 Gray, G-R-A-Y. First name Carol, C-A-R-O-L. Juror
12 number 8 Nicola Merilus. Last name Merilus,
13 M-E-R-I-L-U-S. First name Nicola, N-I-C-O-L-A.
14 Juror number 9, Emily Cheng. Last name Cheng,
15 C-H-E-N-G. First name Emily, E-M-I-L-Y.

16 THE COURT: Okay. To you 6 newest members
17 of this panel and with apologies to the ones who
18 were here already and have heard all of these
19 questions, but to the 6 new ones I will ask you the
20 same questions that I have asked everyone else so
21 far. And please give me the loud yes no answer or
22 heads moving up or down.

23 Are you each over 18 years old. Residents
24 of Queens county. Citizens of this country. Have
25 ever been convicted of a felony. Are you each able

1 to read, understand and speak English. Do either of
2 you know me, the ADA, defendant or defense counsel
3 or to your knowledge any of our family or friends.

4 You heard me read from a list of people
5 who may testify at this trial. Do you know anyone
6 by those names. Yes Ms. Gottesman.

7 A PROSPECTIVE JUROR: I believe that you
8 read Dr. Jamie Hoffman. I worked for her in LIJ. I
9 am a pediatrician in her department.

10 THE COURT: Is there anything that you
11 know about her or the kind of work that she does
12 that would have you treat her any differently than
13 you would any other witness as far as accepting or
14 believing what she has to say in this case.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: And there is nothing about
17 your relationship or knowledge of her that makes you
18 feel that you could not give both sides in this case
19 a fair trial.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: This case will be over the
22 latest by Friday March 30th. Maybe sooner but
23 certainly not later. Do either of you have any
24 hearing handicap or any type of disability that
25 would prevent you from sitting as a juror through to

1 Friday March 30th.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Do you have a hardship or
4 other pressing matter that would prevent you from
5 giving your full attention to this trial.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: Do you have any religious,
8 moral or ethical beliefs or reasons that would
9 prevent you from finding a person guilty even if that
10 were proven to you beyond a reasonable doubt.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: We have a person here who as
13 any person who is arrested and charged with a crime
14 in this country the defendant has a right not to
15 testify if he chooses not to testify. If you are
16 chosen as a juror would you be able to follow my
17 instructions and not draw any inference unfavorable
18 to him because he chooses not to testify.

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: And a single witness to a
21 crime there are times when crimes are committed when
22 there is only a single person present.

23 Therefore the law is that if you believe
24 that the single witness to an event beyond a
25 reasonable doubt and what he or she says about that

1 event it amounts to a crime that is enough to
2 convict.

3 My question is if you believe a single
4 witness beyond a reasonable doubt can you convict.

5 I hear the very strong yes and no and then I get to
6 this question and silence. Okay.

7 Just to give you time again to answer.

8 If you believe a single witness to a crime beyond a
9 reasonable doubt can you convict or do you feel that
10 you will would need a second witness or some other
11 person who was actually there to see to convict.

12 What is your --

13 A PROSPECTIVE JUROR: It would be harder
14 if it's just one witness.

15 THE COURT: Understood but this question
16 is assuming that you believe that single witness
17 beyond a reasonable doubt. If you do not believe
18 them beyond a reasonable doubt then you cannot and
19 should not convict. But if you believe them beyond
20 a reasonable doubt that is enough to convict.

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: All right. Ms. Cheng.

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: And Mr, it's spelled
25 differently, both of you agree.

1 A PROSPECTIVE JUROR: Yes.

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: And is there anyone of you and
4 again I am speaking to the 6 new members of the
5 panel the nature the crime charged in this case it's
6 a sexual offense. The accuser is a child. And the
7 defendant is an adult. The defendant is entitled to
8 a fair trial. We need to know whether or not because
9 of the nature of the charges can you give the
10 defendant a fair trial given the nature of the
11 charges.

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: Ms. Curatolo.

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: And Mr. Chang.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Approach please.

18 (Whereupon, a side-bar record begins.)

19 A PROSPECTIVE JUROR: The thing is I know
20 a person who has been victimized by a raper. So
21 it's very disturbing for me.

22 THE COURT: So the nature of the crime
23 charged.

24 A PROSPECTIVE JUROR: It's very
25 disturbing. I just can't stand that.

1 THE COURT: And that feeling is so
2 strong that you are not sure that you can give the
3 defendant a fair trial.

4 A PROSPECTIVE JUROR: Because I know a
5 person who it actually happened to her.

6 THE COURT: In that case had that person
7 been arrested.

8 A PROSPECTIVE JUROR: No, could not find
9 the person who did that.

10 THE COURT: Counsel consent.

11 MR. JOHNSTON: Yes.

12 MS. MALIK: Yes.

13 THE COURT: Thank you Mr. Chang.

14 (Whereupon, a side-bar record concludes.)

15 THE COURT: He is excused. Auto.

16 COURT CLERK: Juror number 2, Taina
17 Couvertier. Last name Couvertier,
18 C-O-U-V-E-R-T-I-E-R. First name Taina, T-A-I-N-A.

19 THE COURT: Ma'am your last name is
20 pronounced.

21 A PROSPECTIVE JUROR: Couvertier.

22 THE COURT: Better that I ask than even
23 try to pronounce it. You are over 18 years old. A
24 resident of Queens county. Citizens of this country.

25 A PROSPECTIVE JUROR: Yes.

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: You read, write and
3 understand English.

4 A PROSPECTIVE JUROR: Yes.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: Do you know me, the ADA, the
7 defense counsel or the defendant or to your
8 knowledge any of our family or friends.

9 A PROSPECTIVE JUROR: No.

10 A PROSPECTIVE JUROR: No.

11 THE COURT: Do you know any one on the
12 list.

13 A PROSPECTIVE JUROR: No.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Any hearing handicap or any
16 other type of handicap that would prevent you from
17 sitting as a juror to the latest Friday.

18 A PROSPECTIVE JUROR: No.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: Any extreme hardship that
21 would.

22 A PROSPECTIVE JUROR: No.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Do you have any religious,
25 moral or ethical beliefs or reasons that would

1 prevent you from finding a person guilty even if
2 that were proven to you beyond a reasonable doubt.

3 A PROSPECTIVE JUROR: No.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: If you are chosen as a juror
6 if the defendant chooses not to testify would you be
7 able to follow my instructions and not draw any
8 inference unfavorable to him because he chose not to
9 testify.

10 A PROSPECTIVE JUROR: Yes.

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: On the question of a single
13 witness if you believe a single witness beyond a
14 reasonable doubt that is enough to convict. Can you
15 convict based on the testimony of a single witness
16 if you believe that witness beyond a reasonable
17 doubt.

18 A PROSPECTIVE JUROR: Yes.

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: Is there anything about the
21 nature of the charges including the fact that it's a
22 sexual offense charge that the accuser is a child
23 and that and that the defendant obviously is an
24 adult is there anything about the nature of the
25 charges that makes you feel that you could not be

1 fair to both sides in this case.

2 A PROSPECTIVE JUROR: No.

3 A PROSPECTIVE JUROR:

4 THE COURT: Thank you. And now to the
5 questionnaire beginning with Mr. Gottesnan. I will
6 read through each question with him and get his
7 answers. And then beginning with Ms. Couvertier I
8 will read the question number and get her answer.

9 Mr. Gottesnan, number one your name.

10 A PROSPECTIVE JUROR: Abraham Gottesnan.

11 THE COURT: Place of birth.

12 A PROSPECTIVE JUROR: Toronto, Canada.

13 THE COURT: Area of residence.

14 A PROSPECTIVE JUROR: Kew Gardens.

15 THE COURT: How long have you lived at
16 your current address.

17 A PROSPECTIVE JUROR: 3 years.

18 THE COURT: How long have you lived in
19 this country.

20 A PROSPECTIVE JUROR: 10 years.

21 THE COURT: Marital status .

22 A PROSPECTIVE JUROR: Married.

23 THE COURT: Your years of education or
24 highest degree.

25 A PROSPECTIVE JUROR: MD.

1 THE COURT: And number 8, you work as a
2 pediatrician.

3 A PROSPECTIVE JUROR: Schneider Childrens
4 Hospital, LIJ.

5 THE COURT: How long have you been there
6 for.

7 A PROSPECTIVE JUROR: This is my third
8 year.

9 THE COURT: What kind of work does your
10 wife do.

11 A PROSPECTIVE JUROR: She is a teacher.

12 THE COURT: Level of students.

13 A PROSPECTIVE JUROR: High school girls.

14 THE COURT: Is there anything about either
15 the work that you do or the type of students that
16 your wife teaches anything that makes you feel you
17 could not be fair to both sides in this case.

18 A PROSPECTIVE JUROR: I feel that I can
19 be fair to both sides. It's obvious that the work
20 that I do just in the last 48 hours I have spoken to
21 ACS but not a similar case but about a child
22 protective situation.

23 THE COURT: Frankly it's -- you're quite
24 obviously and this is true of any comment that I
25 would make to any of the jurors you know yourselves

1 a lot more than we could in this brief time talking.

2 And you are the best judgement as to whether or not
3 you can be fair to both sides in this case. It does
4 not matter what you do for a living or the kind of
5 experiences that you had in the course of your life.

6 If it's similar in nature we would need
7 you to be able to say that you can put those
8 experiences aside and be fair to both sides. My
9 question of you doctor is can you put those
10 experiences aside and be fair to both sides in this
11 case.

12 A PROSPECTIVE JUROR: I believe that I
13 could.

14 THE COURT: And I can safely interpret
15 that to say that you will.

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: Number 9, ever served on a
18 state or federal Grand Jury.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: Number 10, ever served on a
21 state or federal trial jury.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Number 11 A any relative or
24 close friend been the victim of a crime.

25 A PROSPECTIVE JUROR: My house in Toronto

1 was broken into.

2 THE COURT: Any one home at the time.

3 A PROSPECTIVE JUROR: My sister saw the
4 burglar when he saw her he ran out.

5 THE COURT: Anything about that crime
6 that makes you feel that you could not be fair to
7 both sides in this case.

8 A PROSPECTIVE JUROR: No.

9 THE COURT: Any other answers to 11 A.

10 A PROSPECTIVE JUROR: I have had property
11 stolen.

12 THE COURT: Stolen how.

13 A PROSPECTIVE JUROR: Stolen from my car.

14 THE COURT: A car. Was it locked at the
15 time.

16 A PROSPECTIVE JUROR: Probably was not
17 locked.

18 THE COURT: Anyone ever arrested and
19 charged with that.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: Those items that were stolen
22 anything ever found.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Any other answers to 11 A.

25 A PROSPECTIVE JUROR: No.

1 THE COURT: 11 B any relative or close
2 friend ever been a witness to a crime.

3 A PROSPECTIVE JUROR: My sister witnessed
4 the burglary at my house.

5 THE COURT: Any other answers to 11 B.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: 11 C, relative or close
8 friend every been accused of a crime.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: 11 D, ever convicted of a
11 crime.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: 11 E, ever testified in a
14 criminal proceeding.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: 11 F, been a party to a
17 civil lawsuit.

18 A PROSPECTIVE JUROR: A grand parent who
19 was sued for someone who slipped on ice on their
20 property.

21 THE COURT: That case was here in Queens
22 or.

23 A PROSPECTIVE JUROR: In Brooklyn.

24 THE COURT: You said grandparents. A
25 case long ago resolved.

1 A PROSPECTIVE JUROR: Not long ago. In
2 the last 5 years.

3 THE COURT: And anything about that
4 experience that makes you feel that you could not be
5 fair to both sides in this case.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: 12 A, ever been employed by
8 a law enforcement agency or a criminal justice
9 agency.

10 A PROSPECTIVE JUROR: No.

11 THE COURT: 12 B, any relative or close
12 friend been employed by a law firm.

13 A PROSPECTIVE JUROR: My brother is a
14 lawyer.

15 THE COURT: What kind of law does he
16 practice.

17 A PROSPECTIVE JUROR: I don't know.

18 THE COURT: That practice is it here in
19 New York.

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: How long has he been an
22 attorney.

23 A PROSPECTIVE JUROR: 4 months.

24 THE COURT: So I would assume that he has
25 not had a wealth of experience as a lawyer yet.

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: Any other answers to 12 B.

3 A PROSPECTIVE JUROR: I mean I have an
4 uncle of my wife who is a lawyer. Who is a lawyer
5 who has been practicing many years in Manhattan.

6 THE COURT: What kind of law does he
7 practice.

8 A PROSPECTIVE JUROR: I would say general
9 issues. Contracts.

10 THE COURT: Any other answers to 12 B.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Same answer to 12 C. Your
13 brother and your wife's uncle. Any other answers.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Probably the same answers to
16 12 D. Any other answers.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: Number 13. Have you or
19 anyone close to you have a pleasant or such an
20 unpleasant experience with the police that you feel
21 that could you not be a fair and impartial juror.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Number 14 the law says that
24 an indictment is only an accusation of crime. You
25 cannot infer that a defendant is guilty because he

1 or she has been arrested and indicted by a Grand
2 Jury. Can you accept that concept and will you
3 follow the law that I will later present to you.

4 A PROSPECTIVE JUROR: Yes.

5 THE COURT: Number 15 the law says that
6 the defendant is presumed innocent until he is
7 proven guilty beyond a reasonable doubt. Can you
8 accept that and will you follow the law that I will
9 later present to you.

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Number 16, do you understand
12 that because you have heard no evidence up to this
13 point if you were asked to vote right now that you
14 would have to vote the defendant is not guilty.

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Number 17, the law says that
17 the prosecution has the burden of proving the
18 defendant guilty beyond a reasonable doubt. Can you
19 accept that and will you follow the law that I will
20 later present to you.

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: Number 18, do you know any
23 reason why you could not sit as a fair and impartial
24 juror in this case.

25 A PROSPECTIVE JUROR: No.

1 THE COURT: Thank you sir. Ms. Couvertier
2 number one please.

3 A PROSPECTIVE JUROR: Taina Couvertier.
4 Puerto Rico. 7 years. I am sorry, Hollis, Queens.
5 7 years. 28 years.

6 THE COURT: 6.

7 A PROSPECTIVE JUROR: Married.

8 THE COURT: 7.

9 A PROSPECTIVE JUROR: A year and a half.
10 And in college.

11 THE COURT: 8.

12 A PROSPECTIVE JUROR: Me and my husband
13 are both unemployed.

14 THE COURT: Was there any time that you
15 worked full time.

16 A PROSPECTIVE JUROR: I would say in 98.

17 THE COURT: When you were working full
18 time back in 98 what did you do.

19 A PROSPECTIVE JUROR: A receptionist at
20 an animal clinic.

21 THE COURT: When you were working there
22 how long did you work there.

23 A PROSPECTIVE JUROR: 8 months.

24 THE COURT: Your husband what kind of work
25 was he doing when he was last working full time.

1 A PROSPECTIVE JUROR: He was a male
2 sorter in the Conde Naste building in Manhattan
3 which they have different magazine companies in
4 there. He worked there for I believe 5 months.

5 THE COURT: Number 9.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: 10.

8 A PROSPECTIVE JUROR: Yes.

9 THE COURT: 10 A.

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Civil or criminal case.

12 A PROSPECTIVE JUROR: Civil.

13 THE COURT: One or more times.

14 A PROSPECTIVE JUROR: Once.

15 THE COURT: In that case who was suing who
16 for what.

17 A PROSPECTIVE JUROR: The plaintiff was
18 suing the defendant because they basically they got
19 hit by the defendant they were in the airport. I
20 think got trapped between a car in front of them and
21 the defendants car. I think that they were crossing
22 the street and they got trapped. They are suing for
23 injuries I guess.

24 THE COURT: 10 B.

25 A PROSPECTIVE JUROR: No it was settled.

1 THE COURT: 10 C.

2 A PROSPECTIVE JUROR: I believe it was

3 Spring of 2002.

4 THE COURT: 11 A. Victim of a crime.

5 A PROSPECTIVE JUROR: No.

6 THE COURT: 11 B. Witness to a crime.

7 A PROSPECTIVE JUROR: No.

8 THE COURT: 11 C. Accused of a crime.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: 11 D. Convicted of a crime.

11 A PROSPECTIVE JUROR: No. No. No.

12 THE COURT: 12 A.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: B.

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: 12 C and D.

17 A PROSPECTIVE JUROR: No. No.

18 THE COURT: Number 13.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: 14.

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: 15.

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: 16.

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: 17.

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: And 18.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Thank you. Ms. Stanford
6 number one please.

7 A PROSPECTIVE JUROR: Barbara Stanford.

8 New York. Jamaica, Queens. 28 years. All my life.
9 Divorced.

10 THE COURT: 7.

11 A PROSPECTIVE JUROR: High school.

12 THE COURT: 8.

13 A PROSPECTIVE JUROR: I have a son.

14 THE COURT: Well --

15 A PROSPECTIVE JUROR: My occupation. I
16 am sorry. Senior coordinator. Like an
17 administrator.

18 THE COURT: What kind of business.

19 A PROSPECTIVE JUROR: Utility.

20 THE COURT: You have been working with
21 them now for how long.

22 A PROSPECTIVE JUROR: 40 years.

23 THE COURT: I know that you said that
24 you're divorced. What kind of work did your
25 ex-husband do.

1 A PROSPECTIVE JUROR: I don't know it's
2 been so long ago.

3 THE COURT: Well, since it's been that
4 long ago I guess that it does not matter.

5 A PROSPECTIVE JUROR: I am not sure.

6 THE COURT: Any children of working age.

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: How many and what do they do.

9 A PROSPECTIVE JUROR: One. A truck
10 driver.

11 THE COURT: Number 9.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: 10.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: 11 A.

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: Who and what kind of a crime.

18 A PROSPECTIVE JUROR: Car stolen.

19 THE COURT: One or more times.

20 A PROSPECTIVE JUROR: One.

21 THE COURT: Car ever found after it was
22 taken.

23 A PROSPECTIVE JUROR: The shell of the
24 car.

25 THE COURT: Anyone ever arrested and

1 charged with the crime.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Any other answers to 11 A.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: 11 B.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: 11 C.

8 A PROSPECTIVE JUROR: No.

9 THE COURT: D.

10 A PROSPECTIVE JUROR: No.

11 THE COURT: E.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: F.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: 12 A.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: B.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: C.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: D.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: 13.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: 14.

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: 15.

3 A PROSPECTIVE JUROR: Yes.

4 THE COURT: 16.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: 17.

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: 18.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: Mr. Lam number one.

11 A PROSPECTIVE JUROR: Dan Lam. New York.

12 Kew Gardens. My while life. 25 years.

13 THE COURT: 5.

14 A PROSPECTIVE JUROR: Sorry that is --
15 number 4 was 7. 7 years. Number 5 is whole life.

16 THE COURT: 6.

17 MR. JOHNSTON: Single.

18 THE COURT: 7.

19 A PROSPECTIVE JUROR: Bachelors degree.

20 Arts.

21 THE COURT: BA.

22 A PROSPECTIVE JUROR: Yes.

23 THE COURT: And the Arts being what
24 subjects.

25 A PROSPECTIVE JUROR: Music.

1 THE COURT: Number 8.

2 A PROSPECTIVE JUROR: Administrative
3 assistant.

4 THE COURT: In what kind of a business.

5 A PROSPECTIVE JUROR: Non profit artists
6 organization.

7 THE COURT: What do you do with them.

8 A PROSPECTIVE JUROR: A number of things.
9 Membership. Development. Offers.

10 THE COURT: You have been working with
11 them for how long now.

12 A PROSPECTIVE JUROR: A year and a half.

13 THE COURT: Number 9.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: 10.

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: 10 A.

18 A PROSPECTIVE JUROR: Civil case.

19 THE COURT: One or more times.

20 A PROSPECTIVE JUROR: Once.

21 THE COURT: 10 B.

22 A PROSPECTIVE JUROR: I was an alternate
23 juror.

24 THE COURT: 10 C.

25 A PROSPECTIVE JUROR: That was in I

1 believe May of 2002.

2 THE COURT: 11 A.

3 A PROSPECTIVE JUROR: Yes, burglary
4 house.

5 THE COURT: Anyone home at the time.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: Anyone arrested and charged
8 with the crime.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: Was the crime investigated by
11 the police.

12 A PROSPECTIVE JUROR: I believe so I was
13 a little bit young at the time.

14 THE COURT: Any other answers to 11 A.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: 11 B.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: C.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: D.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: E.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: F.

25 A PROSPECTIVE JUROR: No.

1 THE COURT: 12 A.
2 A PROSPECTIVE JUROR: No.
3 THE COURT: B.
4 A PROSPECTIVE JUROR: No.
5 THE COURT: C.
6 A PROSPECTIVE JUROR: No.
7 THE COURT: D.
8 A PROSPECTIVE JUROR: No.
9 THE COURT: 13.
10 A PROSPECTIVE JUROR: No.
11 THE COURT: 14.
12 A PROSPECTIVE JUROR: Yes.
13 THE COURT: 15.
14 A PROSPECTIVE JUROR: Yes.
15 THE COURT: 16 yes.
16 THE COURT: 17.
17 A PROSPECTIVE JUROR: Yes.
18 THE COURT: 18.
19 A PROSPECTIVE JUROR: No.
20 THE COURT: Thank you sir. Ms. Curatolo
21 number one.
22 A PROSPECTIVE JUROR: Christina Curatolo.
23 New York. Bayside. Whole life. Whole life.
24 Single. BS in Accounting.
25 THE COURT: 8.

1 A PROSPECTIVE JUROR: Accountant.

2 THE COURT: What kind of a business do you
3 work for as an accountant.

4 A PROSPECTIVE JUROR: I work for a
5 company in the city.

6 THE COURT: For how long.

7 A PROSPECTIVE JUROR: This is my second
8 year.

9 THE COURT: Are you going for your CPA or
10 are you going to.

11 A PROSPECTIVE JUROR: I passed my exam.
12 I am waiting to get my 2 years of experience in.
13 Then I will be fully licensed.

14 THE COURT: Number 9.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: 10.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: 11 A.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: B.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: C.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: D.

25 A PROSPECTIVE JUROR: No.

1 THE COURT: D.
2 A PROSPECTIVE JUROR: No.
3 THE COURT: E and F.
4 A PROSPECTIVE JUROR: No.
5 THE COURT: 12 A.
6 A PROSPECTIVE JUROR: No.
7 A PROSPECTIVE JUROR: No.
8 THE COURT: 13.
9 A PROSPECTIVE JUROR: No.
10 THE COURT: 14.
11 A PROSPECTIVE JUROR: Yes.
12 THE COURT: 15.
13 A PROSPECTIVE JUROR: Yes.
14 THE COURT: 16.
15 A PROSPECTIVE JUROR: Yes.
16 THE COURT: 17.
17 A PROSPECTIVE JUROR: Yes.
18 THE COURT: 18.
19 A PROSPECTIVE JUROR: No.
20 THE COURT: Thank you Ms. Gray number
21 one.
22 A PROSPECTIVE JUROR: Carol Gray.
23 Kingston, Jamaica. Jamaica, New York. Over 30
24 years. 35 years.
25 THE COURT: So I am understanding that

1 you have been living at home that you are living
2 there for over 30 years.

3 A PROSPECTIVE JUROR: Yes.

4 THE COURT: 6.

5 A PROSPECTIVE JUROR: Single. JD.

6 THE COURT: Number 8.

7 A PROSPECTIVE JUROR: Lawyer.

8 THE COURT: What kind of law do you
9 practice.

10 A PROSPECTIVE JUROR: Mostly criminal
11 defense.

12 THE COURT: And for how long have you been
13 a defense attorney and an attorney.

14 A PROSPECTIVE JUROR: An attorney over 15
15 years.

16 THE COURT: How many of those years have
17 you been a defense attorney.

18 A PROSPECTIVE JUROR: Over 11.

19 THE COURT: Are you working in your own
20 firm or do you work for a big agency.

21 A PROSPECTIVE JUROR: I work for a fairly
22 small firm in Brooklyn.

23 THE COURT: Fairly small meaning how many
24 attorneys in that firm.

25 A PROSPECTIVE JUROR: About 25.

1 THE COURT: And you have been working
2 with them for how long.

3 A PROSPECTIVE JUROR: 10 years.

4 THE COURT: Number 9.

5 A PROSPECTIVE JUROR: No.

6 THE COURT: 10.

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: 10 A.

9 A PROSPECTIVE JUROR: One of each.

10 THE COURT: In the criminal case what
11 was the charge in this case.

12 A PROSPECTIVE JUROR: Robbery.

13 THE COURT: Was that case here in Queens.

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: 10 B. For both of the cases.

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: And.

18 A PROSPECTIVE JUROR: Wait sorry. The
19 civil yes. The criminal no.

20 THE COURT: And was that no because there
21 was a disposition of the case prior to the jury
22 having to deliberate or because it was --

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: Hung.

25 A PROSPECTIVE JUROR: Not hung.

1 THE COURT: And 10 C.

2 A PROSPECTIVE JUROR: I believe that it
3 was in 2003 early. Early part the year.

4 THE COURT: 11 A. Victim of a crime.

5 A PROSPECTIVE JUROR: Long, long time
6 ago.

7 THE COURT: Who and what kind of a crime.

8 A PROSPECTIVE JUROR: Someone tried to
9 snatch my coat from me.

10 THE COURT: And the coat that you were
11 wearing at the time.

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: That's even more brazen than I
14 mean if it was on your arm.

15 A PROSPECTIVE JUROR: No I was wearing it.

16 THE COURT: And you said that they tried
17 to snatch your coat. What happened.

18 A PROSPECTIVE JUROR: I fought them.

19 THE COURT: It was one.

20 A PROSPECTIVE JUROR: It was one person.

21 THE COURT: A male.

22 A PROSPECTIVE JUROR: A male.

23 THE COURT: And in that struggle were you
24 hurt in any way.

25 A PROSPECTIVE JUROR: Not really.

1 THE COURT: Was he ever caught and charged
2 with that crime.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: How old were you at the time
5 that this happened.

6 A PROSPECTIVE JUROR: A teenager.

7 THE COURT: Any other answers to 11 A.

8 A PROSPECTIVE JUROR: Just regular
9 vandalism of your car. Windows broken. That type
10 of thing.

11 THE COURT: Anyone ever arrested and
12 charged with those crimes.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Same answers to 11 B. Any
15 other answers to 11 B.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: 11 C.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: D.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: E.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: F.

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: Who and who sued who for what.

1 A PROSPECTIVE JUROR: My brother was a
2 plaintiff suing different businesses who don't pay.

3 THE COURT: In small claims court.

4 A PROSPECTIVE JUROR: Yes some and some
5 civil.

6 THE COURT: 12 A.

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: Who do you know that works
9 for what agency.

10 A PROSPECTIVE JUROR: I have a friend that
11 works for law enforcement.

12 THE COURT: What branches.

13 A PROSPECTIVE JUROR: New York City
14 Police Department. Some corrections.

15 THE COURT: Any other answers to 12 A.

16 A PROSPECTIVE JUROR: Agencies, yes.

17 THE COURT: Any other agencies include.

18 A PROSPECTIVE JUROR: Even like CJA. I
19 know people who work for CJA. The court system.
20 Everything within the courts dealing with defense.
21 I know people.

22 THE COURT: Other than yourself any other
23 answers to 12 B.

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: Friends and colleagues.

1 Running the gamut.

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: Bar Association and the
4 like.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: Same answers to 12 C.

7 A PROSPECTIVE JUROR: Yes. The same
8 answer.

9 THE COURT: And same answer to 12 D.

10 A PROSPECTIVE JUROR: That's what I do.

11 THE COURT: Number 13.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: 14.

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: 15.

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: 16.

18 A PROSPECTIVE JUROR: Yes.

19 THE COURT: 17 is.

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: 18.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Okay. Thank you Ms. Gray.

24 What we'll do is that I will stop my questions with
25 Ms. Gray. It is now prior to lunch. It's time to

1 break for lunch. Please follow the instructions of
2 the officer. Come back from lunch at 2:15. This
3 afternoon I will pickup with Ms. Gooding at that
4 time. Have a great lunch. See you this afternoon at
5 2:15.

6 (Whereupon, jurors exit the courtroom)

7 THE COURT: Anything further.

8 MS. MALIK: No your Honor.

9 MR. JOHNSTON: Nothing judge.

10 THE COURT: See you this afternoon.

11 (Whereupon, a luncheon recess was taken.)

12 COURT CLERK: Recall case on trial.

13 Calendar 2, Abu Khan.

14 THE COURT: Ready all.

15 MR. JOHNSTON: Yes.

16 MS. MALIK: Yes.

18 THE COURT: So when we were last together
19 I mentioned that when we come back from lunch I
20 would begin with Ms. Gooding. So number one please.

21 A PROSPECTIVE JUROR: Fay Gooding.

22 Guyana. Queens Village, 13 years. 16 years in this
23 country. Single. I didn't go to school here but I
24 have a GED.

25 THE COURT: Number 8.

1 MR. JOHNSTON: I work I am a nurse at Mt.
2 Sinai Hospital.

3 THE COURT: What do you do in nursing.

4 A PROSPECTIVE JUROR: As a patient care
5 associate.

6 THE COURT: How long have you been
7 working with them.

8 A PROSPECTIVE JUROR: 13 years.

9 THE COURT: Any children of working age.

10 A PROSPECTIVE JUROR: One child. He is
11 looking for a job right now.

12 THE COURT: Is there any time that he
13 worked full time.

14 A PROSPECTIVE JUROR: For a short time.

15 THE COURT: Short time meaning a matter of
16 weeks or months.

17 A PROSPECTIVE JUROR: About 3 months.

18 THE COURT: In those months what kind of
19 work was he doing.

20 A PROSPECTIVE JUROR: He was in a factory
21 doing packaging at night.

22 THE COURT: Number 9.

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: Grand Jury.

25 A PROSPECTIVE JUROR: No state jury.

1 THE COURT: Number 9 is Grand Jury so the
2 answer to number 9 is no.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Number 10 is yes.

5 A PROSPECTIVE JUROR: Yes state jury.

6 THE COURT: 10 A.

7 A PROSPECTIVE JUROR: Civil case yes.

8 THE COURT: 1 or more times.

9 A PROSPECTIVE JUROR: One time.

10 THE COURT: 10 B.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: 10 C.

13 A PROSPECTIVE JUROR: 2000 I think.

14 THE COURT: In that case was it settled
15 before you had to deliberate.

16 A PROSPECTIVE JUROR: It was settled.

17 THE COURT: 11 A.

18 A PROSPECTIVE JUROR: My sister.

19 THE COURT: And what kind of a crime was
20 she a victim of.

21 A PROSPECTIVE JUROR: They broke into her
22 apartment.

23 THE COURT: Anyone home at that time.

24 A PROSPECTIVE JUROR: No she was at work.

25 THE COURT: Anyone arrested and charged

1 with that crime.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Any other answers to 11 A.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: That crime was it
6 investigated by the police.

7 A PROSPECTIVE JUROR: The police was
8 called. She just leave the apartment and she move
9 to Queens.

10 THE COURT: So that crime did not happen
11 in Queens.

12 A PROSPECTIVE JUROR: It happened in
13 Brooklyn.

14 THE COURT: 11 B.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: 11 C.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: D.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: E.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: F.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: 12 A.

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: Who works for what law
2 enforcement.

3 A PROSPECTIVE JUROR: My cousin is a
4 correction officer.

5 THE COURT: How long has he been a
6 correction officer.

7 A PROSPECTIVE JUROR: Almost 3 years I
8 think.

9 THE COURT: City corrections or state
10 corrections at Rikers.

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: Any other answers to 12 A.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: B.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: C.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: D.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: Number 13.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: 14.

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: 15.

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: 16.

2 A PROSPECTIVE JUROR: Yes. Yes and no.

3 THE COURT: Ms. Merilus.

4 A PROSPECTIVE JUROR: Nicola Merilus.

5 Jamaica, West Indies. Cambria Heights. 6 years.

6 27 years. Married. I have my associates in
7 business.

8 THE COURT: Number 8.

9 A PROSPECTIVE JUROR: Licensed practical
10 nurse.

11 THE COURT: For how long have you been in
12 the nursing field.

13 A PROSPECTIVE JUROR: 8 years.

14 THE COURT: And how many of those years
15 have you been a licensed practical nurse.

16 A PROSPECTIVE JUROR: 5 years.

17 THE COURT: What kind of work does your
18 husband do.

19 A PROSPECTIVE JUROR: He is a manager for
20 UPS.

21 THE COURT: In the work that you do you
22 work in a hospital.

23 A PROSPECTIVE JUROR: A doctors office.

24 THE COURT: How long have you worked
25 there.

1 A PROSPECTIVE JUROR: Right now this
2 current job its 2 month now I just switched jobs.
3 Leaving another dermatology practice for about 8
4 years.

5 THE COURT: Now you have said that your
6 husband is a manager at UPS. How long has he been
7 doing that.

8 A PROSPECTIVE JUROR: 18 years.

9 THE COURT: Any children of working age.

10 A PROSPECTIVE JUROR: No.

11 THE COURT: Number 9.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: 10.

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: 10 A.

16 A PROSPECTIVE JUROR: Criminal. Once.

17 THE COURT: What was the charge in that
18 case.

19 A PROSPECTIVE JUROR: Multiple counts I
20 think it was like 40 plus counts and that case I
21 believe that there were like attempted murder.
22 Sodomy. Things of that nature.

23 THE COURT: It was a single defendant or
24 multiple defendants.

25 A PROSPECTIVE JUROR: Single.

1 THE COURT: 10 B.

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: And C.

4 A PROSPECTIVE JUROR: October 2002.

5 THE COURT: Where was that case here in
6 Queens county.

7 A PROSPECTIVE JUROR: Nassau County.

8 THE COURT: 11 A.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: B.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: C.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: 12 A.

15 A PROSPECTIVE JUROR: Yes, my brother in
16 law is a New York City detective.

17 THE COURT: Any other answers to 12 A.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: B.

20 A PROSPECTIVE JUROR: Yes, my cousin in
21 the state of Texas.

22 THE COURT: What kind.

23 A PROSPECTIVE JUROR: A defense attorney.

24 THE COURT: In the state of Texas.

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: How many years.

2 A PROSPECTIVE JUROR: 2 years.

3 THE COURT: Any other answers to 12 B.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Same answers to 12 C.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: 12 D.

8 A PROSPECTIVE JUROR: No.

9 THE COURT: 13.

10 A PROSPECTIVE JUROR: No. No. Yes.

11 Yes. Yes. And no.

12 THE COURT: Ms. Cheng.

13 A PROSPECTIVE JUROR: Emily Cheng. Hong
14 Kong. Kew Gardens. 8 months.

15 THE COURT: Prior to where you are living
16 now where did you live.

17 A PROSPECTIVE JUROR: Flushing.

18 THE COURT: Number 5.

19 A PROSPECTIVE JUROR: 23 year. Married.
20 A DPT, Doctorate in Physical Therapy. Unemployed.

21 THE COURT: When was the last time that
22 you were employed full time.

23 A PROSPECTIVE JUROR: I have been on
24 rotation not working.

25 THE COURT: How long have you had your

1 DPT.

2 A PROSPECTIVE JUROR: I got it in May of
3 06.

4 THE COURT: Number 9.

5 A PROSPECTIVE JUROR: No.

6 THE COURT: 10.

7 A PROSPECTIVE JUROR: No.

8 THE COURT: 11 A.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: B.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: C.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: D.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: F.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: 12 A. No, no, no.

19 THE COURT: 13. No.

20 THE COURT: 14.

21 A PROSPECTIVE JUROR: Yes, yes, yes, yes,
22 no.

23 THE COURT: Mr. Roth.

24 A PROSPECTIVE JUROR: Bennett Roth.

25 Queens. Flushing. Kew Gardens. 17 years. All my

1 life. Married. Bachelors.

2 THE COURT: What subject.

3 A PROSPECTIVE JUROR: Business.

4 THE COURT: 8.

5 A PROSPECTIVE JUROR: Supervisor at
6 Postal Office.

7 THE COURT: How long have you been
8 working with the Post Office.

9 A PROSPECTIVE JUROR: 27 years.

10 THE COURT: How long have you been a
11 supervisor.

12 A PROSPECTIVE JUROR: 23 of them.

13 THE COURT: What part of the service do
14 you supervise.

15 A PROSPECTIVE JUROR: Tenant manager
16 Kennedy Airport.

17 THE COURT: Wife works.

18 A PROSPECTIVE JUROR: Housewife. Small
19 children. Grand Jury no.

20 THE COURT: 10.

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: 10 A.

23 A PROSPECTIVE JUROR: Yes. One. The
24 charge was burglary.

25 THE COURT: 10 B.

1 A PROSPECTIVE JUROR: It was. A verdict
2 was reached but was a second alternate. Was not
3 part of it.

4 THE COURT: 10 C.

5 A PROSPECTIVE JUROR: 4 or 5 years.

6 THE COURT: Were you around at the time
7 that verdict was rendered.

8 A PROSPECTIVE JUROR: No.

9 THE COURT: Had you then called back to
10 find out what happened with the case.

11 A PROSPECTIVE JUROR: I did call back.
12 They were sequestered.

13 THE COURT: 11 A.

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: Who and what kind of a
16 crime.

17 A PROSPECTIVE JUROR: Car theft.

18 THE COURT: One or more times.

19 A PROSPECTIVE JUROR: Once.

20 THE COURT: Car ever found.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: Anyone arrested and charged.

23 A PROSPECTIVE JUROR: Not that I know of.

24 THE COURT: Any other answer to 11 A.

25 A PROSPECTIVE JUROR: No.

1 THE COURT: B.

2 A PROSPECTIVE JUROR: No. No. No.

3 THE COURT: In those 27 years in the post
4 office never witnessed any crime.

5 A PROSPECTIVE JUROR: No.

6 THE COURT: 12 A.

7 A PROSPECTIVE JUROR: No.

8 THE COURT: B.

9 A PROSPECTIVE JUROR: No, no.

10 THE COURT: 13.

11 A PROSPECTIVE JUROR: No, yes, yes, yes,
12 yes.

13 THE COURT: And 18.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Thank you sir. Ms.

16 Zarzabal.

17 A PROSPECTIVE JUROR: Carolia Zarzabal.

18 Puerto Rico. Rego Park, Queens. 25 years. A long
19 time.

20 THE COURT: Number 6.

21 A PROSPECTIVE JUROR: Married.

22 THE COURT: 7.

23 A PROSPECTIVE JUROR: High school.

24 THE COURT: 8.

25 A PROSPECTIVE JUROR: Accounting.

1 THE COURT: What do you do in accounting.

2 A PROSPECTIVE JUROR: I do the
3 collections and the payouts to the authors.

4 THE COURT: What kind of company do you
5 work for.

6 A PROSPECTIVE JUROR: Literary agency.

7 THE COURT: How long have you been there.

8 A PROSPECTIVE JUROR: 23 years.

9 THE COURT: And so the collections that
10 you send is to the.

11 A PROSPECTIVE JUROR: Royalties to the
12 authors of the various books.

13 THE COURT: What kind of work does your
14 husband do.

15 A PROSPECTIVE JUROR: He installs radios
16 and antennas in cars. Things like that.

17 THE COURT: He was his own boss.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Any children of working age.

20 A PROSPECTIVE JUROR: No children.

21 THE COURT: 9.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: 10.

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: A.

1 A PROSPECTIVE JUROR: Civil once.

2 THE COURT: 10 B.

3 A PROSPECTIVE JUROR: I guess yes. It
4 was an elevator thing where a person got caught in
5 an elevator.

6 THE COURT: So it wasn't settled.

7 A PROSPECTIVE JUROR: They asked for an
8 amount of money.

9 THE COURT: So you had deliberated on
10 liability and you were saying that it was settled as
11 far as damages are concerned.

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: 10 C.

14 A PROSPECTIVE JUROR: A long time ago.

15 THE COURT: Not as long as you have been
16 living in this country.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: 11 A.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: B.

21 A PROSPECTIVE JUROR: No, no, no, no.

22 THE COURT: 12 A.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: B.

25 A PROSPECTIVE JUROR: No. No.

1 THE COURT: 13.

2 A PROSPECTIVE JUROR: No, yes.

3 THE COURT: 15.

4 A PROSPECTIVE JUROR: Yes.

5 THE COURT: 16.

6 A PROSPECTIVE JUROR: Yes.

7 THE COURT: 17.

8 A PROSPECTIVE JUROR: Yes.

9 THE COURT: 18.

10 A PROSPECTIVE JUROR: No.

11 THE COURT: All right. Thank you. Mr.
12 Choy.

13 A PROSPECTIVE JUROR: Norman Choy. New
14 York. East Elmhurst. 30 years.

15 THE COURT: 5.

16 A PROSPECTIVE JUROR: All my life. Did
17 divorced. EBA. Number 8 retired.

18 THE COURT: From what.

19 A PROSPECTIVE JUROR: Data processing.

20 THE COURT: What a wonderful thing to
21 actually to be as young as you are to say that I am
22 retired. Most of us cannot say that.

23 A PROSPECTIVE JUROR: It doesn't mean
24 that I will stay retired.

25 THE COURT: How long have you been

1 retired.

A PROSPECTIVE JUROR: 3 years.

7 A PROSPECTIVE JUROR: At the current time
8 yes.

11 A PROSPECTIVE JUROR: She was an
12 executive secretary at a fashion firm.

13 THE COURT: Any children.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Number 9.

16 A PROSPECTIVE JUROR: No. No.

17 THE COURT: 11 A.

18 A PROSPECTIVE JUROR: Car vandalism.

19 THE COURT: Anyone caught and charged.

20 A PROSPECTIVE JUROR: NO.

21 THE COURT: Any other answers to 11 A.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: B.

24 A PROSPECTIVE JUROR: No, no, no.

THE COURT: 12 A.

1 A PROSPECTIVE JUROR: No.

2 THE COURT: B.

3 A PROSPECTIVE JUROR: No, no, no.

4 THE COURT: 13.

5 A PROSPECTIVE JUROR: No.

6 THE COURT: 14.

7 A PROSPECTIVE JUROR: Yes, yes, yes, yes.

8 THE COURT: 18.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: Mr. Aguirre.

11 A PROSPECTIVE JUROR: Edward Aguirre.

12 Ecuador. Astoria. 2 months.

13 THE COURT: Prior to that are you were

14 living where.

15 A PROSPECTIVE JUROR: 18 years in

16 Astoria.

17 THE COURT: Number 5.

18 A PROSPECTIVE JUROR: 36 years.

19 Divorcing now. 2 years college.

20 THE COURT: 8.

21 A PROSPECTIVE JUROR: Non profit

22 organization at the present.

23 THE COURT: Doing what.

24 A PROSPECTIVE JUROR: It's promoting

25 China's national support for next years Olympics.

1 THE COURT: It's national sport is.

2 A PROSPECTIVE JUROR: It's called coshu
3 (ph). It's confusing to American people.

4 THE COURT: And you have been doing that
5 kind of work for how long.

6 A PROSPECTIVE JUROR: Since 2002.

7 THE COURT: I know that you said that
8 you were in the process of getting divorced. What
9 does your wife do.

10 A PROSPECTIVE JUROR: Gymnastics coach.

11 THE COURT: Is she working for a
12 particular.

13 A PROSPECTIVE JUROR: For a gymnastics
14 school.

15 THE COURT: She has been associated with
16 that school for how long.

17 A PROSPECTIVE JUROR: About 12, 13 years.

18 THE COURT: And I imagine that she is
19 working with younger certainly smaller framed people
20 smaller than I am.

21 A PROSPECTIVE JUROR: Youths and
22 teenagers.

23 THE COURT: Number 9.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: 10.

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1 A PROSPECTIVE JUROR: No.

2 THE COURT: 11 A.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: B.

5 A PROSPECTIVE JUROR: No, no.

6 THE COURT: 11 B.

7 A PROSPECTIVE JUROR: No.

8 THE COURT: E.

9 A PROSPECTIVE JUROR: No, no.

10 THE COURT: 12 A.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: B.

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: Who do you know that works for
15 what kind of a law firm.

16 A PROSPECTIVE JUROR: Myself I worked for
17 a law firm in the city.

18 THE COURT: Worked or work now.

19 A PROSPECTIVE JUROR: Worked. I was desk
20 top support.

21 THE COURT: You worked with them for how
22 long.

23 A PROSPECTIVE JUROR: A year.

24 THE COURT: And when was the most recent
25 time that you worked with them.

1 A PROSPECTIVE JUROR: This is back in the
2 mid 90's.

3 THE COURT: Any other answers to 12 B.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: C.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: D.

8 A PROSPECTIVE JUROR: No.

9 THE COURT: 13.

10 A PROSPECTIVE JUROR: No, yes, yes, yes,
11 yes.

12 THE COURT: 18.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: And Mr. Fletcher number one.

15 A PROSPECTIVE JUROR: Bobby Fletcher.

16 South Carolina. Jamaica.

17 THE COURT: 4.

18 A PROSPECTIVE JUROR: We are on 4 now. 6
19 years.

20 THE COURT: 5.

21 A PROSPECTIVE JUROR: All my life.

22 THE COURT: 6.

23 A PROSPECTIVE JUROR: Widower.

24 THE COURT: Number 7.

25 A PROSPECTIVE JUROR: 8.

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1 THE COURT: Number 8.

2 A PROSPECTIVE JUROR: A porter.

3 THE COURT: What kind of building do you
4 work as a porter.

5 A PROSPECTIVE JUROR: An apartment
6 building.

7 THE COURT: Not a commercial building an
8 apartment building.

9 A PROSPECTIVE JUROR: Yes.

10 THE COURT: How long have you been a
11 porter for.

12 A PROSPECTIVE JUROR: Years, 34.

13 THE COURT: Have you worked at that same
14 complex each of those 34 years.

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: How long have you been a
17 widower.

18 A PROSPECTIVE JUROR: 9 years.

19 THE COURT: Any children of working age.

20 A PROSPECTIVE JUROR: 2.

21 THE COURT: What kind of work do they
22 do.

23 A PROSPECTIVE JUROR: Teacher and a dental
24 assistant.

25 THE COURT: What level student does the

1 teacher teach if you know.

2 A PROSPECTIVE JUROR: She is a dean. So I
3 don't know what she teaches.

4 THE COURT: All right. Number 9.

5 A PROSPECTIVE JUROR: Yes but I don't
6 remember the case.

7 THE COURT: 9 is asking about a Grand
8 Jury.

9 A PROSPECTIVE JUROR: Well I have served
10 the Grand Jury, civil and federal. But I do not
11 remember the case.

12 THE COURT: So you had served on a Grand
13 Jury it was a state Grand Jury meaning here in
14 Queens county.

15 A PROSPECTIVE JUROR: In Brooklyn.

16 THE COURT: Was it state or federal Grand
17 Jury.

18 A PROSPECTIVE JUROR: I think it was
19 state.

20 THE COURT: So you served on a Grand
21 Jury one time.

22 A PROSPECTIVE JUROR: Right.

23 THE COURT: And you are saying in the
24 answer to number 10 as far as the trial jury is
25 concerned you also sat on a trial jury.

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: And a civil case.

3 A PROSPECTIVE JUROR: Yes.

4 THE COURT: And a criminal case.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: You do not know what the
7 charge was in the criminal case.

8 A PROSPECTIVE JUROR: Well not really.

9 Because all 3 of them I think were dismissed.

10 THE COURT: Okay.

11 A PROSPECTIVE JUROR: I don't know which
12 is which but it was crazy. It was crazy cases.

13 THE COURT: So you had the misfortune of
14 being chosen for 3 crazy cases.

15 A PROSPECTIVE JUROR: Right.

16 THE COURT: 11 A. Victim of a crime.

17 A PROSPECTIVE JUROR: I had 4 cars
18 stolen.

19 THE COURT: Anyone ever caught and
20 charged.

21 A PROSPECTIVE JUROR: Once.

22 THE COURT: Any idea as to how they were
23 caught.

24 A PROSPECTIVE JUROR: Yes they were
25 parked outside the house and a cop passed by and saw

1 them going into the trunk. He asked for
2 registration. They did not have it.

3 THE COURT: Had that case gone into
4 court.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: Are you satisfied with how
7 the case was handled in court.

8 A PROSPECTIVE JUROR: Well I don't know
9 how it turned out I never heard nothing else about
10 it.

11 THE COURT: Any other answer to 11 A.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: 11 B. Witness to a crime.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: 11 C.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: D.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: E.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: F.

22 A PROSPECTIVE JUROR: Yes.

23 THE COURT: Who sued who for what.

24 A PROSPECTIVE JUROR: I sued a guy who he
25 was supposed to put some cabinets up. I paid him

1 half the money he never did it.

2 THE COURT: You sued him in small claims
3 court.

4 A PROSPECTIVE JUROR: Yes.

5 THE COURT: How did that case turn out.

6 A PROSPECTIVE JUROR: Not too good I
7 never got nothing.

8 THE COURT: 12 A.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: B.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: C.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: D.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: 13.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: 14.

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: 15.

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: 16.

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: 17.

25 A PROSPECTIVE JUROR: Yes.

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1 THE COURT: 18.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Thank you Mr. Fletcher.

4 Thank you all for being patient with me and my
5 questions.

6 Now you have a chance to be asked
7 questions by the attorneys. Beginning first with
8 the ADA Ms. Mina Malik.

9 VOIR DIRE

10 BY MS. MALIK:

11 MS. MALIK: Thank you your Honor. Good
12 afternoon ladies and gentlemen of the jury. Again
13 my name is Mina Malik and I work in the Special
14 Victims Bureau in the DA's office.

15 I am given the responsibility of
16 presenting this case to you at this time. There is
17 no right or wrong answers here. What we are looking
18 for are honest answers so that we can pick a jury
19 that can be fair to both the People of the state of
20 New York as well as to the defendant who sits before
21 you okay. So I appreciate your candor so far. I
22 would ask that you please keep that up. First just
23 by a show of hands who has children here. Okay.
24 Lets starts with you Mr. -- Dr. Gottesnan how old
25 are they.

1 A PROSPECTIVE JUROR: 8, 7, 3 and 3

2 months. I have 4.

3 THE COURT: Busy.

4 MS. MALIK: Busy. And how many girls and
5 boys.

6 A PROSPECTIVE JUROR: One girl who is 3
7 and the rest are boys.

8 THE COURT: Ms. Couvertier.

9 A PROSPECTIVE JUROR: 2 and 10 months and
10 22 months. A girl and boy.

11 THE COURT: Ms. Stanford.

12 A PROSPECTIVE JUROR: My child is grown.

13 THE COURT: Who is next Ms. Gray.

14 A PROSPECTIVE JUROR: I have 2 children.
15 9 and 4 both girls.

16 MS. MALIK: And Ms. Gooding.

17 A PROSPECTIVE JUROR: One.

18 MS. MALIK: Ms. Merilus.

19 A PROSPECTIVE JUROR: Yes I have a girl
20 and boy. The girl is 8. The boy is 2.

21 MS. MALIK: And who is next Mr. Roth.

22 A PROSPECTIVE JUROR: 3 children. 10
23 years old.

24 MS. MALIK: Triplets.

25 A PROSPECTIVE JUROR: Yes, 2 girls, one

1 boy.

2 MS. MALIK: Mr. Choy.

3 A PROSPECTIVE JUROR: No.

4 MS. MALIK: Mr. Aguirre.

5 A PROSPECTIVE JUROR: 2, a boy and girl.

6 11 and 14.

7 MS. MALIK: Mr. Fletcher.

8 A PROSPECTIVE JUROR: 3 girls.

9 MS. MALIK: So I wanted to talk to you
10 about that ladies and gentlemen of the jury about
11 children. How many of you as a child were taught to
12 obey authority and to obey adults. Is it safe to say
13 everybody here and those of you who have children do
14 you teach your children as well to respect authority
15 and obey adults.

16 A PROSPECTIVE JUROR: Yes.

17 MS. MALIK: Do you believe that a child
18 should be required to resist sexual advances to hold
19 an adult accountable to their behavior. Do you
20 believe that. If sexual advances are made towards a
21 child that they are required to resist those
22 advances. Anybody else.

23 A PROSPECTIVE JUROR: Yes.

24 MS. MALIK: You believe that.

25 A PROSPECTIVE JUROR: Resist as in to

1 report or to resist not to let it happen.

2 MS. MALIK: Not to let it happen. How
3 many of you believe that they should be required to
4 resist.

5 A PROSPECTIVE JUROR: Yes.

6 MS. MALIK: You believe that they should
7 be required. Could you have raise your hands.

8 THE COURT: Let me clear in my own head
9 as to what that means. She had asked you initially
10 of the kinds of things that you were taught as
11 children and the ways that you are raising your
12 children. So to my own mind I am not sure whether
13 or not the question is that she is asking is are you
14 teaching your children to resist or if you think
15 that any child that is set upon by an adult should
16 physically resist. Ms. Malik would you make that
17 clear or maybe I should.

18 MS. MALIK: I would like you to your
19 Honor please.

20 THE COURT: One of the things that you
21 would be asked to do if you are chosen as a juror in
22 this case is to first determine the facts and then
23 apply the law as I give it to you at the end of case
24 to those facts.

25 If the law is that a child does not have

1 to physically resist would you take the position
2 that in order to find someone guilty a child has to
3 physically resist. Do you follow my question. I am
4 essentially asking would you follow what the law is
5 or would you impose your own view as to what a child
6 should do in a situation that that child is facing.
7 Would you impose what you think the law should be or
8 would you impose or interpret the law that exists.

9 A PROSPECTIVE JUROR: Now it's getting
10 more complicated.

11 A PROSPECTIVE JUROR: Can I say
12 something. Are you saying that if the kid is like is
13 willing, under age and if the adult messes with her
14 we consider that rape is that what you are saying.

Now some people may feel that well the
child did not resist. The child did not say no.
But the law is that simple because if the fact is
that the child is under a certain age they cannot

1 consent. It doesn't matter what they said. If and
2 I am not saying that this is a fact pattern in this
3 case just to answer Mr. Fletchers question to try to
4 better answer his question. And also to address
5 some of what Ms. Malik was asking.

6 There are times when what you may view to
7 be the appropriate actions of an alleged victim
8 comes in conflict with what the law is as to what
9 someone who is accused can or cannot do to that
10 alleged victim. One of the areas where there is a
11 conflict or can be a problem is with the age of the
12 child.

13 Our law is that if you are under a
14 certain age a child can't consent. And is there
15 anyone of you who are feels that that law meaning a
16 law that is designed to protect a child under a
17 certain age meaning that they cannot consent. Do
18 you feel that is unfair. Or can you follow that
19 law.

20 A PROSPECTIVE JUROR: Yes follow the law.

21 THE COURT: Each of you can follow the
22 law. The law says that a child under a certain age
23 cannot consent. Can you follow that law. It does
24 not matter what the child says. If the child is
25 under that age then they cannot consent.

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1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: In a case like this would
3 you, can you each commit to follow the law that is
4 and not impose what you think the law should be.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay Ms. Malik.

7 MS. MALIK: Thank you your Honor. Ms.
8 Curatolo what do you think a pedophile looks like.

9 A PROSPECTIVE JUROR: It could be male,
10 female. Young or old.

11 MS. MALIK: How about you Dr. Gottensnan
12 what do you think.

13 A PROSPECTIVE JUROR: I agree with that
14 answer it could be either.

15 MS. MALIK: Everybody agree with that
16 answer.

17 A PROSPECTIVE JUROR: Yes.

18 MS. MALIK: I would like you to take a
19 look at the defendant. Is there anything about him
20 that makes you think that just from looking at him
21 on appearance alone that he could not have done the
22 crimes that he is accused of doing.

23 MR. JOHNSTON: Judge, I am going to
24 object to that.

25 THE COURT: Sustained.

1 MR. JOHNSTON: I think that is going into
2 qualification.

3 MS. MALIK: Can you all agree with me
4 that you cannot judge a book by it's cover.

5 A PROSPECTIVE JUROR: Yes.

6 MS. MALIK: Can you all agree that
7 regardless of how charming or charismatic that a
8 person can be that behind closed doors that you may
9 not know the person behind closed doors.

10 A PROSPECTIVE JUROR: Yes.

11 MS. MALIK: Can you promise me that you
12 will keep that in mind as you listen to this case.

13 A PROSPECTIVE JUROR: Yes.

14 MS. MALIK: I would like to talk to you
15 ladies and gentlemen of the jury about the one
16 witness issue which his Honor brought up to you
17 earlier.

18 You all agree that if you believe the
19 witness, one witness to a crime beyond a reasonable
20 doubt that each and every one of you would be able
21 to convict in this case. What I would like to ask
22 you now is that what if that one witness were a
23 teenager would that change your answer in any way
24 given that the person is younger and not considered
25 to be an adult.

1 Maybe a young teenager would that change
2 your answer in any way when you said earlier on that
3 you would be able to convict if you believe that
4 person. Mr. Lam would that change your answer.

5 A PROSPECTIVE JUROR: No. If there is
6 reason to believe beyond a reasonable doubt whatever
7 that person is saying I would believe them.

8 MS. MALIK: Can you all understand that
9 when you combine a sex act and that act is criminal
10 in nature that obviously people would not be
11 committing that out in public or out in the street
12 where there are other witnesses. Can you understand
13 that Mr. Choy.

14 A PROSPECTIVE JUROR: Yes.

15 MS. MALIK: Can you appreciate that.

16 A PROSPECTIVE JUROR: Yes.

17 MS. MALIK: So the fact that the one
18 witness may be a young teenager would that change
19 your answer in any way or if you believed her would
20 you still be able to convict.

21 A PROSPECTIVE JUROR: Yes.

22 MS. MALIK: How about you Ms. Curatolo.

23 A PROSPECTIVE JUROR: I agree.

24 MS. MALIK: You would be able to convict.

25 A PROSPECTIVE JUROR: Yes.

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1 MS. MALIK: Ms. Stanford.

2 A PROSPECTIVE JUROR: I would.

3 MS. MALIK: Ms. Couvertier.

4 A PROSPECTIVE JUROR: Yes.

5 MS. MALIK: Dr. Gottesman.

6 A PROSPECTIVE JUROR: Yes.

7 MS. MALIK: Ms. Merilus.

8 A PROSPECTIVE JUROR: Yes.

9 MS. MALIK: Ms. Cheng.

10 A PROSPECTIVE JUROR: Yes.

11 MS. MALIK: Mr. Roth.

12 A PROSPECTIVE JUROR: Yes.

13 MS. MALIK: Ms. Zarzabal.

14 A PROSPECTIVE JUROR: Yes.

15 MS. MALIK: Ms. Gooding. You would be
16 able to convict if it's a teenager and just one
17 witness.

18 A PROSPECTIVE JUROR: Yes.

19 THE COURT: Mr. Fletcher.

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Mr. Aguirre.

22 A PROSPECTIVE JUROR: Yes.

23 MS. MALIK: You are going to hear what is
24 called testimonial evidence ladies and gentlemen.

25 That is evidence that comes before you through

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1 witness testimony those who take the stand right
2 here and words that come out of their mouths. You
3 are going to be asked to do what you have done years
4 and years before which is to basically evaluate the
5 case based on the testimony that comes from that
6 witness chair right there and the words that come
7 out of the witnesses mouths.

8 I will tell you right now you are not
9 going to hear any fingerprint evidence. This is not
10 CSI. There is no magic fairy dust that solves the
11 case in an hour. You are not going to hear about
12 DNA blood evidence or any positive medical evidence.
13 Sometimes the scientific evidence is just not
14 possible even though it's expected. Would you need
15 more than witness testimony to convict in that
16 scenario.

17 MR. JOHNSTON: I am going to object to
18 the form of the question judge.

19 THE COURT: Overruled.

20 MS. MALIK: Would you.

21 A PROSPECTIVE JUROR: Yes I would.

22 MS. MALIK: You would need more than a
23 witnesses testimony.

24 A PROSPECTIVE JUROR: Obviously it would
25 depend on the testimony. I guess that I could be

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1 swayed. I would like more than just the say so
2 of a person.

3 MS. MALIK: Dr., sometimes definitive
4 medical evidence is just not possible. Haven't you
5 come address that in some of your pediatric cases.

6 A PROSPECTIVE JUROR: Yes.

7 MS. MALIK: Can you think of one that
8 comes to mind that maybe a child comes in and says
9 that something happened and there is just no medical
10 evidence.

11 A PROSPECTIVE JUROR: Yes.

12 MS. MALIK: And you believed that child
13 anyway.

14 A PROSPECTIVE JUROR: Yes.

15 MS. MALIK: So if you found the child
16 credible then you could convict in this case despite
17 the fact that there is no medical evidence.

18 A PROSPECTIVE JUROR: Yes, but you know I
19 would I wouldn't operate not I would not operate on
20 a person just on a matter of say so. On a matter of
21 treating a sore throat I would accept the testimony.

22 MS. MALIK: You have come across that in
23 your own occupation.

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: How about you Mr. Lam.

1 A PROSPECTIVE JUROR:

2 MS. MALIK: There is no scientific
3 evidence assume that for a moment. All you have is
4 the witnesses testimony. Would you if you found the
5 witness credible would you be able to convict or
6 would you need more. Would you need scientific
7 evidence.

8 A PROSPECTIVE JUROR: If the testimony
9 from the person is credible enough that would be
10 enough.

11 MS. MALIK: Do you feel that way Ms.
12 Couvertier.

13 A PROSPECTIVE JUROR: I agree.

14 MS. MALIK: You would be able to convict
15 even though there is no scientific evidence.

16 A PROSPECTIVE JUROR: If I find that the
17 witness is credible yes.

18 MS. MALIK: Ms. Stanford.

19 A PROSPECTIVE JUROR: Yes.

20 MS. MALIK: You would you be fine with
21 that.

22 A PROSPECTIVE JUROR: Yes.

23 MS. MALIK: Ms. Curatolo.

24 A PROSPECTIVE JUROR: I agree.

25 MS. MALIK: Does anybody here need more

1 than the witnesses testimony if they find the
2 witnesses testimony credible. Would you be expecting
3 more medical evidence. Scientific evidence. Anything
4 of that nature. Ms. Merilus how do you feel about
5 that.

6 A PROSPECTIVE JUROR: If the person seems
7 credible yes I would go along with that.

8 THE COURT: You have 2 minutes.

9 MS. MALIK: Thank you your Honor. Anybody
10 in the back row. Would you need any scientific
11 evidence. Mr. Roth, Mr. Fletcher, Dr. Gottesman how
12 do you think that a child should act when they are
13 testifying. Particular about sex acts.

14 A PROSPECTIVE JUROR: I don't know. I
15 don't know if there is a way that they should act.

16 MS. MALIK: And that's true. How many of
17 you are comfortable with us here today about where
18 you live. However many kids that you have and all
19 of that. Are you as comfortable here in the
20 courtroom as a room full of strangers as you would
21 be in your house.

22 A PROSPECTIVE JUROR: No.

23 MS. MALIK: Can you promise me that you
24 will keep that in mind when you see the witnesses
25 come in, in this case. Especially the child witness

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1 that they might react differently. They might cry.
2 They might be emotionless. They might be silent for
3 a while. Can you take that into consideration when
4 evaluating the testimony.

5 A PROSPECTIVE JUROR: Yes.

6 MS. MALIK: Ladies and gentlemen I would
7 ask I would like to ask you is there any one here
8 who knows someone that has been abused.

9 A PROSPECTIVE JUROR: Professionally not
10 personally.

11 THE COURT: 30 seconds.

12 MS. MALIK: Thank you your Honor. If the
13 evidence shows that a child delayed in reporting
14 would you listen to the reason as to why they
15 delayed in reporting the incident and take that into
16 consideration. And Dr. Gottesman what are some
17 reasons why a child would delay in reporting.

18 MR. JOHNSTON: I am going to object to
19 that.

20 THE COURT: Sustained.

21 MS. MALIK: Can you promise me that you
22 will take that into consideration ladies and
23 gentlemen. Okay. Ladies and gentlemen of the jury
24 there is no jury school. There is nothing like that.
25 All I ask you to do is to be fair and impartial in

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1 this case and to follow the law and to be free from
2 sympathy and not leave your common sense at the door
3 as you walk in if you are chosen to be on this case.
4 Can you promise me those things.

5 A PROSPECTIVE JUROR: Yes.

6 MS. MALIK: Thank you very much.

7 THE COURT: All right. Thank you. Mr.
8 Johnston.

9 VOIR DIRE

10 BY MR. JOHNSTON:

11 MR. JOHNSTON: Good afternoon folks. I am
12 Bob Johnston. I am the attorney for Mr. Abu Khan
13 and I have co-counsel involved with this matter as
14 well Mr. Samuel Viruet. I want to welcome you to
15 this particular part and this particular case.

16 Now there is something that we should
17 discuss right off because it was mentioned by the
18 judge and the DA a few minutes ago. This concept
19 about the one witness thing. It's not quite as
20 simple as what it has been made out so far.

21 The judge at the end of the case is going
22 to give you the legal instruction on how to come to
23 a decision in this case. But even if you think that
24 a witness is credible you know they could be telling
25 the truth. They seemed to be honest. That's just

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1 not enough because if you remember question 17 in
2 the questionnaire said that the People have the
3 burden of proving the defendant guilty beyond a
4 reasonable doubt.

5 So at the end of the case even though you
6 might believe that one witness seemed to be somewhat
7 credible if in its entirety the evidence does not
8 satisfy you that the People have proven each and
9 every element of the crime beyond a reasonable doubt
10 then the defendant is entitled to a verdict of not
11 guilty. Does everybody understand that concept.

12 You might believe this Ashley Martinez
13 who is making the accusations against Mr. Khan. You
14 might say you know she could be telling the truth
15 but that is not enough. You have to be convinced
16 beyond a reasonable doubt that what she tells you is
17 the truth and that what she says proves all of the
18 elements of the crime beyond a reasonable doubt.
19 Anybody have any problem with that. Very good.

20 All right. Mr. Gottesman you indicated
21 to the courts that are you were familiar with one of
22 the witnesses that the People intend to call a Ms.
23 Rosenfeld right.

24 A PROSPECTIVE JUROR: Yes.

25 MR. JOHNSTON: How much of a relationship

1 do you have with her.

2 A PROSPECTIVE JUROR: It goes back
3 several years in my medical school that I went to
4 Albert Einstein in the Bronx. At the time she was
5 working out of Montefiore Medical Center. She was
6 the professor of child abuse as part of the
7 pediatric program. I took at least one class with
8 her which involved her showing slides and speaking
9 about that topic.

10 Now that I am at LIJ she is recently last
11 year joined the program there as the child
12 protective coordinator for the hospital. The person
13 that you call if you have questions about child
14 protective issues.

15 MR. JOHNSTON: Here is going to come the
16 \$64,000.00 question. She is going to take the
17 witness stand and she is going to testify that she
18 examined this Ashley Martinez.

19 MS. MALIK: Objection your Honor.

20 THE COURT: Well, you cannot tell him.

21 MR. JOHNSTON: No I am not going to say
22 what she is going to say. I don't know yet. Based
23 on what I do know she is going to testify right.
24 And you as you're sitting there might decide based
25 on your experience and your education that her

opinion is wrong based on what she testifies to
about the nature of the examination.

Now the evidence in the case is basically her testimony not how you whether or not you feel that she is right or wrong. Would you be able to objectively analyze Dr. Rosenfeld's testimony or do you think that you might say to yourself well she was one my professors. She is an expert in the area I am going to lean towards her side and go with her opinion rather than my own certain opinion.

11 A PROSPECTIVE JUROR: That is a hard
12 question for me to answer. I would have to take
13 everybody into consideration. I do know her. I do
14 respect her opinion. If she said something wrong I
15 would disagree with her.

Lets see of those of you who have young
children Ashley or one of the witnesses who is going
to be the one that is claiming that the defendant

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1 abused her she is about 14 and a half now and she is
2 going to claim that back in --

3 MS. MALIK: Objection your Honor.

4 THE COURT: Sustained.

5 MR. JOHNSTON: Well the indictment says
6 the indictment says that in 1997 he did some certain
7 things that were improper.

8 MS. MALIK: Objection your Honor.

9 THE COURT: Overruled.

10 MR. JOHNSTON: That's approximate what
11 the indictment says. And she is more than likely
12 going to come under cross examination because of
13 something that the DA just told us in her voir dire
14 that it was not immediately reported right away.

15 MS. MALIK: Objection.

16 THE COURT: Overruled.

17 MR. JOHNSTON: Is there anyone here that
18 feels that they would not consider the fact that a
19 child does not report allegations of sexual abuse
20 for maybe almost 10 years. Do you think that would
21 be something that you might want to consider during
22 the course of your deliberations and ask yourself is
23 there any logical reasonable evidence to explain why
24 that happened.

25 Is there anyone here that would not at

1 least consider that fact. So by your silence I
2 assume that you all would consider that and see if
3 the explanations that the witness gives are
4 reasonable for why she delayed for more than 10
5 years before making a report of any sexual abuse.
6 Would everybody consider that. That's all I want to
7 know. Would you consider that.

8 A PROSPECTIVE JUROR: Yes.

9 MR. JOHNSTON: You might feel that there
10 is a reasonable explanation. But later on you might
11 also say that you know that is not reasonable at
12 all. And it creates some doubt on her testimony.
13 Now those of you who sat on a Grand Jury know that
14 in a Grand Jury you basically or you usually only
15 hear one side of the case. The prosecutor comes into
16 the Grand Jury. Presents cases, witnesses and you
17 are asked to vote an indictment. Most of the time
18 the defendant is not present. And he does not have
19 an attorney with him or there is nobody to represent
20 the accused. And that is one of the reasons why the
21 judge in his questionnaire told you that the fact
22 that somebody has been indicted is not evidence of
23 anything.

24 You know to be honest I have some friends
25 that I have conversations with and they told me if

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1 somebody had been arrested and indicted they
2 probably did something wrong or there is no doubt
3 about it that they did something wrong because they
4 had been arrested and indicted. I tell him that you
5 would not be a good juror in this case or in any
6 case because the law is contrary to that. That the
7 fact that somebody has been arrested and indicted is
8 not evidence of anything. It's testimony and
9 exhibits in a court of law in front of a jury that
10 determines whether or not somebody is guilty or not.
11 Is there anyone that has any problem following that
12 particular article or principle of law. I know Ms.
13 Gray you don't.

14 A PROSPECTIVE JUROR: No.

15 MR. JOHNSTON: Listen I am going to be
16 honest with you. You are a defense attorney right.

17 A PROSPECTIVE JUROR: Yes.

18 MR. JOHNSTON: You probably represented
19 people accused of crimes many times.

20 A PROSPECTIVE JUROR: Yes.

21 MR. JOHNSTON: Does that make you feel
22 that you would favor Mr. Khan or myself or our side
23 or could you even though you work that side you
24 could be fair and impartial and be fair to the DA
25 and fair to the defendant.

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1 A PROSPECTIVE JUROR: Yes.

2 MR. JOHNSTON: Those of you who have been
3 a victim of a crime. You had your house burglarized
4 or your car stolen or something like that. Those
5 incidents have nothing to do with this case. You all
6 said that you would not let them bias your opinion
7 against Mr. Khan because he is accused of a crime. I
8 don't think that there is any problem with that.

9 I guess here is based on what we have
10 discussed so far the judges voir dire, the DA's voir
11 dire and what I have just said to you a few minutes
12 ago is there anyone who feels that they could not be
13 a fair and impartial juror in this case.

14 Okay. By your silence I believe that
15 everybody will give the defendant a fair shake. Hold
16 the People to their burden of proving guilt beyond a
17 reasonable doubt of each and every material element
18 of the crime charged. Thank you very much. I have
19 no further questions judge.

20 THE COURT: Thank you Mr. Johnston. All
21 right. This is -- there are matters that will be
22 handled in the course of this trial that are matters
23 of law that gets handled outside of the presence of
24 the jury. This is one of those times.

25 Please follow the instructions of the

1 officer. Those in the jury box if you wish you can
2 leave a jacket or bag in your seat. Follow the
3 officers instruction. Wait outside and we will bring
4 you back in here in about 10 minutes or so.

5 (Whereupon, prospective jurors exit the
6 courtroom)

7 THE COURT: When you are ready let me
8 know.

9 MR. JOHNSTON: We are ready judge.

10 MS. MALIK: Yes judge.

11 THE COURT: Looking at number 1 through
12 7 People cause.

13 MS. MALIK: None for cause your Honor.

14 THE COURT: Defense could you say.

15 MR. JOHNSTON: None for cause.

16 THE COURT: People peremptory.

17 MS. MALIK: Number 3 Ms. Stanford.

18 Number 6 Ms. Gray and number 7 Ms. Gooding.

19 THE COURT: Defense peremptory.

20 MR. JOHNSTON: Was there a ruling on the
21 challenge for cause for number 1.

22 THE COURT: There was no cause as to 1.

23 MR. JOHNSTON: Okay. Number 1 we are
24 challenging. Number 5. Number 9.

25 THE COURT: No first 7. That's it

1 defense.

2 MR. JOHNSTON: Number 1 and.

3 THE COURT: Number 2 and 4 are the 2
4 that are left.

5 MR. JOHNSTON: Yes.

6 THE COURT: So number 2 is juror number
7 one. And number 4 becomes juror number 2. Looking
8 now at number 8 through 14 People cause.

9 MS. MALIK: None for cause your Honor.

10 THE COURT: Defense cause.

11 MR. JOHNSTON: None for cause.

12 THE COURT: People peremptory.

13 MS. MALIK: Number 13 Mr. Aguirre.

14 Number 11 Mr. Zarzabal. Number 12 Mr. Choy.

15 THE COURT: That's it People.

16 MS. MALIK: That's it your Honor.

17 THE COURT: Defense peremptory.

18 MR. JOHNSTON: Number 9 that's it.

19 THE COURT: Ms. Cheng.

20 MR. JOHNSTON: Yes.

21 THE COURT: Number 3, juror number 3 will
22 be Ms. Merilus. 4 is Mr. Roth. 5 will be Mr.
23 Fletcher.

24 COURT CLERK: We agree that juror number 1
25 is Taina Couvertier, juror number 2 is Danny Lam,

1 juror number 3 is Nicola Merilus, juror number 4 is
2 Bennett Roth and juror number 5 is Bobby Fletcher.
3 We agree.

4 MS. MALIK: Yes.

5 MR. JOHNSTON: Yes.

6 COURT CLERK: People have used 6 and the
7 defense has used 3 peremptories.

8 COURT OFFICER: Ready judge.

9 THE COURT: Yes.

10 COURT OFFICER: Lynn Risner and Ann
11 Pheifer (ph).

12 THE COURT: Now ladies I know that it
13 was any number of times since you have been in the
14 room that there were moments that you did not hear.

15 A PROSPECTIVE JUROR: Yes, I had to ask
16 someone what he -- what he's being tried for and I
17 would have come up to you to say that I have a
18 problem so can I come up now or no.

19 THE COURT: You are there. You can
20 explain now.

21 A PROSPECTIVE JUROR: My daughter works
22 for Legal Aid and she worked for JRD Division. She
23 represents children that have been abused, sexually
24 assaulted. I think I may have a problem.

25 THE COURT: You have a child problem.

1 A PROSPECTIVE JUROR: Right.

2 THE COURT: One is a physical issue
3 meaning that your hearing in this room is
4 diminished. You do not hear everything that is being
5 said.

6 A PROSPECTIVE JUROR: Right.

7 THE COURT: You also say that you have
8 an added problem because your daughter is working
9 with kids who are abused. You do not think that you
10 could be a fair juror.

11 A PROSPECTIVE JUROR: I -- not that she
12 discusses anything.

13 THE COURT: Understood. And Ms.
14 Pheifer.

15 A PROSPECTIVE JUROR: I cannot hear you
16 your Honor.

17 THE COURT: Even at this, like here.
18 Close like this.

19 A PROSPECTIVE JUROR: When you -- I mean
20 until right now I was not even sure of what the case
21 was about.

22 THE COURT: You had no idea what the case
23 was about.

24 A PROSPECTIVE JUROR: I know that it was
25 sexual. I did not realize that it was rape.

1 A PROSPECTIVE JUROR: I would like to
2 know why don't you use the microphone.

3 THE COURT: What I will do is because I
4 agree it is difficult for you both to hear me in
5 this room. So because of that difficulty and I do
6 not want there to be of any further problem as far
7 as you're understanding either me or the other
8 people that will speak in this trial what I will do
9 is that I will excuse you both from this trial.

10 A PROSPECTIVE JUROR: What does that
11 mean. Does that mean that we have to go back to the
12 room and be picked again.

13 THE COURT: I cannot --

14 A PROSPECTIVE JUROR: Us being here for
15 the 2 days --

16 COURT OFFICER: That's up to them. You
17 are dismissed from this particular case.

18 A PROSPECTIVE JUROR: Thank you very much.

19 COURT OFFICER: Ready for the jury judge.

20 THE COURT: We are.

21 COURT OFFICER: Prospective jurors
22 entering.

23 COURT CLERK: Jurors names that I call
24 remain seated. If I call your name remain seated.
25 The other jurors will report back immediately to

1 central jury.

2 Juror number one Taina Couvertier. Juror
3 number 2 Danny Lam. Juror number 3 Nicola Merilus.
4 Juror number 4 Bennett Roth. And juror number 5
5 Bobby Fletcher. If I have called your name remain
6 seated. If I did not call your name take your
7 belongings and report back to central jury.

8 COURT CLERK: Are the remaining jurors
9 acceptable to the People and the defense.

10 MR. JOHNSTON: Yes.

11 MS. MALIK: Yes.

12 COURT CLERK: Please rise and raise your
13 right hand. Do you solemnly swear or affirm that you
14 will try this indictment in a just and impartial
15 manner and to the best of your judgment and render a
16 verdict according to the law and the evidence so
17 help you God.

18 (Whereupon, yes is answered by all)

19 COURT CLERK: So sworn. You may be
20 seated.

21 THE COURT: As you heard your names
22 called and the number attached you are our first 5
23 jurors on this case. So welcome to this jury.
24 There is nothing more for us to do with you today.
25 So please follow the instruction of the officer.

1 Come in at 2 PM afternoon. In the meantime we'll
2 keep working and working with those members of the
3 panel who are in the audience. Welcome to the jury
4 and see you tomorrow afternoon at 2 PM.

5 COURT OFFICER: Panel please rise.

Everyone else remain seated. Follow me.

7 (Whereupon, jurors exit the courtroom)

Juror number 9, Anthony Boehm. Last name, B-O-E-H-M. First name, A-N-T-H-O-N-Y. Juror

1 number 10, Christophea Gibbs. Last name, G-I-B-B-S.
2 First name, C-H-R-I-S-T-O-P-H-E-A. Juror number 11,
3 Peter Yuin. Last name, Y-U-I-N. First name,
4 P-E-T-E-R. Juror number 12, George Sullivan. Last
5 name, S-U-L-L-I-V-A-N. First name, G-E-O-R-G-E.
6 Juror number 13, Sophia Alexandre. Last
7 name, A-L-E-X-A-N-D-R-E. First name, S-O-P-H-I-A.
8 Juror number 14, Marianna Tito. Last name, T-I-T-O.
9 First name, M-A-R-I-A-N-N-A.

10 THE COURT: Good afternoon.

11 A PROSPECTIVE JUROR: Good afternoon.

12 THE COURT: No surprises. You heard the
13 kinds of questions that I will ask and you have also
14 seen that it's certainly a lot easier for me and
15 maybe you guys also if you speak up louder so that I
16 can hear each of your answers to the questions that
17 I ask. And again there are no surprises.

18 I will ask you the same questions that I
19 asked everyone else. But please I know that you
20 have heard the questions over and over again. Do
21 not start to answer the question before I finish
22 asking it.

23 With the first series of questions is it
24 fair to say that you are each over 18 years old.
25 Residents of Queens county. Citizens of this

1 country.

2 PROSPECTIVE JURORS: Yes.

3 THE COURT: Have either of you ever been
4 convicted of a felony.

5 PROSPECTIVE JURORS: No.

6 THE COURT: Each of you are able to
7 read, understand and speak English.

8 PROSPECTIVE JURORS: Yes.

9 THE COURT: Do you know me, the ADA, the
10 defendant or defense counsel or to your knowledge
11 any of our family or friends.

12 PROSPECTIVE JUROR: No.

13 THE COURT: You heard me read from a list
14 of people who are to testify in this trial. Do you
15 know anyone by those names.

16 PROSPECTIVE JURORS: No.

17 THE COURT: Do any of you have any
18 hearing problem or handicap or any other type of
19 disability that would prevent you from sitting as a
20 juror to the latest of Friday March 30th.

21 PROSPECTIVE JURORS: No.

22 THE COURT: Do you have any extreme
23 hardship that would prevent you from giving your
24 full attention to the end of this trial.

25 PROSPECTIVE JURORS: No.

1 THE COURT: I knew that it was going too
2 well. Mr. Forsyth.

3 A PROSPECTIVE JUROR: I have tickets to
4 fly out on Wednesday the 28th.

5 THE COURT: And there are tickets that
6 have been purchased. You are ready to go and
7 nothing will stop you from going there.

8 A PROSPECTIVE JUROR: Well.

9 THE COURT: Never say never.

10 A PROSPECTIVE JUROR: My outside deadline
11 is that I have to be there on April 12 for sure.

12 THE COURT: We have reason to believe
13 that the case may be over by Wednesday, but if it's
14 not are you saying that it will be difficult for you
15 to change your ticket.

16 A PROSPECTIVE JUROR: Difficult but not
17 impossible.

18 THE COURT: And to change it will it
19 cost you anything.

20 A PROSPECTIVE JUROR: I am not sure.

21 THE COURT: I would not want to cost you
22 anything.

23 A PROSPECTIVE JUROR: I don't know. It's
24 frequent flyer miles. And I have travel insurance.

25 THE COURT: You are an experienced

1 traveler. It should not cost you much of anything.

2 It should not be a problem but you are saying that
3 it is an issue.

4 A PROSPECTIVE JUROR: Yes.

5 THE COURT: And the only issue.

6 A PROSPECTIVE JUROR: Yes.

7 THE COURT: And yes Ms. Gibbs.

8 A PROSPECTIVE JUROR: I am in my first
9 trimester of pregnancy. I miscarried in November.
10 I am being monitored by my doctor. I have to go
11 regularly for blood work. That is something that
12 changes at unexpected times.

13 THE COURT: Consent.

14 MR. JOHNSTON: Yes.

15 MS. MALIK: Yes.

16 THE COURT: All right. I will excuse you
17 Ms. Gibbs. Best of luck to you.

18 A PROSPECTIVE JUROR: Thank you very
19 much.

20 THE COURT: There was a third person yes.

21 Mr. Yuin.

22 A PROSPECTIVE JUROR: Yes is there a
23 possibility that we can get sequestered.

24 THE COURT: No.

25 A PROSPECTIVE JUROR: Then I got no

1 issue.

2 THE COURT: All right.

3 COURT CLERK: Juror number 10 Samuel

4 Santiago. S-A-N-G-I-A-T-O. First name Samuel.

5 S-A-M-U-E-L.

6 THE COURT: Good afternoon Mr. Santiago.

7 A PROSPECTIVE JUROR: Hi.

8 THE COURT: Same questions that I have
9 asked everyone else to bring you up to where I am.
10 Over 18 years old. Resident of Queens county.
11 Citizen of this country.

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: Convicted of a felony.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Speak and understand
16 English.

17 A PROSPECTIVE JUROR: Yes.

18 THE COURT: Do you know me, the ADA, the
19 defendant or defense counsel or to your knowledge
20 any of our family or friends.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: You heard me read from a list
23 of people who may testify do you know one by those
24 names.

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: Who you heard me read from a
2 list of people who may testify in this trial. Do you
3 know anyone by those names.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Do you have any hearing
6 handicap or any other type of handicap or disability
7 that would prevent you from sitting as a juror to
8 the latest Friday March 30.

9 A PROSPECTIVE JUROR: Yes.

10 THE COURT: That is what sir.

11 A PROSPECTIVE JUROR: I can.

12 THE COURT: You can. You can sit no
13 problem you are saying. Sir approach please.

14 (Whereupon, a side-bar record begins.)

15 THE COURT: I was just wondering if you
16 were hearing everything that I was saying.

17 A PROSPECTIVE JUROR: No, no I have not
18 hear. I was here about 5 years ago. I came here.

19 THE COURT: Consent.

20 MR. JOHNSTON: Yes.

21 MS. MALIK: Yes.

22 THE COURT: Thank you. I will excuse
23 you.

24 A PROSPECTIVE JUROR: Okay.

25 (Whereupon, a side-bar record concludes.)

1 COURT CLERK: Juror number 10 Helen Chin.

2 Last name Chin. C-H-I-N. First name Helen.

3 H-E-L-E-N.

4 THE COURT: Good afternoon Ms. Chin.

5 A PROSPECTIVE JUROR: Good afternoon.

6 THE COURT: Same questions that I have

7 asked everyone else. You're over 18 years old.

8 Resident of Queens county. Citizen of this country.

9 A PROSPECTIVE JUROR: Can I have a
10 side-bar with you.

11 THE COURT: Sure.

12 (Whereupon, a side-bar record begins.)

13 THE COURT: Yes.

14 A PROSPECTIVE JUROR: Two things. First
15 of all I have difficulty hearing. So sometimes I
16 have trouble hearing. In fact I have trouble
17 hearing you. And second of all I was raped and
18 assaulted a while ago. I don't think that I would
19 be fair and impartial.

20 THE COURT: Given that the charges in
21 this case and your personal experience you do not
22 think that you can be fair.

23 A PROSPECTIVE JUROR: I don't think that
24 I could be.

25 THE COURT: Consent.

1 MR. JOHNSTON: Yes.

2 MS. MALIK: Yes.

3 THE COURT: Thank you Ms. Chin for your
4 honesty. She is excused.

5 (Whereupon, a side-bar record concludes.)

6 COURT CLERK: Juror number 10. Ravendra
7 Hiralall. Last name H-I-R-A-L-L-A-L-L. First name
8 Ravendra. R-A-V-E-N-D-R-A.

9 THE COURT: Good afternoon Mr. Hiralall.
10 Same questions you are over 18 years old. Resident
11 of Queens county. Citizen of this country.

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: Ever convicted of a felony.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Any problem speaking or
16 understanding English.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: Do you know me, the ADA, the
19 defendant or the defense counsel or any of our
20 family or friends.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: And you heard me read from a
23 list of people who may testify. Do you know any of
24 them.

25 A PROSPECTIVE JUROR: No.

1 THE COURT: Any handicap or disability
2 that would prevent you from sitting on the jury.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: And sir do you have any
5 extreme hardship or other pressing matter that would
6 prevent you from giving your full attention to this
7 trial.

8 A PROSPECTIVE JUROR: No.

9 THE COURT: Do either of you have any
10 religious, moral or ethical beliefs or reasons that
11 would prevent you from finding a person guilty even
12 if you believed even if that guilt were established
13 beyond a reasonable doubt.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: The defendant has a right not
16 to testify. If you are chosen as a juror if he
17 chooses not to testify would you be able to follow
18 my instructions and not draw any inference
19 unfavorable to him because he exercises his right
20 not to testify.

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: And again any questions answer
23 with a nice loud yes or no. Now it was the effort
24 was lacking so your answer to this last question was
25 no.

1 A PROSPECTIVE JUROR: Yes. The answer is
2 yes it was no.

3 THE COURT: It's been a long day for me
4 too. Single witness. There are times when crimes
5 are committed that only a single person is present.
6 The law is that if you the jury and every individual
7 juror believes a single witness beyond a reasonable
8 doubt that is enough to convict. My question is can
9 you convict on the testimony of a single witness if
10 you believe that witness beyond a reasonable doubt.

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: Mr. Krawiec answered yes.

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: And is there anything about
15 the nature of this crime charged meaning that you
16 have a sexual offense and a lone victim who is a
17 child and the defendant is an adult is there
18 anything about the nature of the charges that makes
19 you feel that you could not be fair to both sides in
20 this case. Mr. Krawiec.

21 A PROSPECTIVE JUROR: I have an issue with
22 the offense.

23 THE COURT: Approach please.

24 (Whereupon, a side-bar record begins.)

25 THE COURT: Yes, sir.

1 A PROSPECTIVE JUROR: I have a 16 year
2 old niece who was raped by an adult. Actually the
3 family has moved to Florida and left the state.

4 THE COURT: That adult was a family
5 member.

6 A PROSPECTIVE JUROR: Yes it was a family
7 member.

8 THE COURT: Consent.

9 MR. JOHNSTON: Yes.

10 MS. MALIK: Yes.

11 THE COURT: Thank you for your candor
12 it's important for us to know that.

13 THE COURT: Mr. Boehm, Yes.

14 A PROSPECTIVE JUROR: Basically 3
15 reasons. One of my brothers is with the California
16 Department and The Crime Information Bureau. He is
17 in charge of information on sex offenders.

18 Also I have a friend in Florida who is in
19 a task force that tracks down pedophiles and my
20 sister in-law was raped years later. Still you know
21 I suffer the effects of this.

22 THE COURT: And so you know that in
23 reality I guess we are talking here to find out
24 whether or not you can put all of that aside.

25 A PROSPECTIVE JUROR: It would be hard to

1 especially what they have already said about the
2 person you know I had 2 incidents where they are
3 terrified years later.

4 THE COURT: The fact pattern is it's
5 close to home. As far your experience with this
6 kind of case and your family.

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: Consent.

9 MR. JOHNSTON: Yes.

10 MS. MALIK: Yes.

11 THE COURT: Thank you for your candor
12 sir. And Ms. Alexandre.

13 THE COURT: I didn't Ma'am.

14 A PROSPECTIVE JUROR: I cannot sit on
15 this because I was a victim when I was younger so.

16 THE COURT: Had this person ever been
17 arrested and charged.

18 A PROSPECTIVE JUROR: He was not.

19 THE COURT: You said that it was a
20 family member.

21 A PROSPECTIVE JUROR: Yes.

22 MR. JOHNSTON: Consent.

23 MS. MALIK: Consent.

24 THE COURT: Thank you for your candor.

25 COURT CLERK: Juror number 2 Merdina

1 Bailey. Last name B-A-I-L-E-Y. First name Merdina.
2 M-E-R-D-I-N-A. Juror number 9 Carol Battipaglia.
3 Last name, B-A-T-T-I-P-A-G-L-I-A. First name Carol,
4 C-A-R-O-L. Juror number 13, Regina Corker. Last
5 name C-O-R-K-E-R. First name Regina, R-E-G-I-N-A.

6 THE COURT: These questions are to those
7 recent members of this box. Ms. Battipaglia, Ms.
8 Bailey and Ms. Corker do you -- I ask you the same
9 questions that I have asked everyone else so far.

10 Each of you are over 18 years old.
11 Residents of Queens county. Citizens of this
12 country.

13 PROSPECTIVE JURORS: Yes.

14 THE COURT: Ever been convicted of a
15 felony.

16 PROSPECTIVE JURORS: No.

17 THE COURT: Are you each able to read,
18 understand and speak English.

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: Do you know me, the ADA, the
21 defendant, defense counsel or any of our family or
22 friends.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Ms. Bailey.

25 A PROSPECTIVE JUROR: Yes, I live in

1 Rochdale.

2 THE COURT: You believe that you know me.

3 (Whereupon, a side-bar record begins.)

4 THE COURT: Let me start with Ms. Bailey
5 by knowing that when some one either knows me or
6 something about me they sometimes wonder if they
7 should tell somebody or how to say it. So you are
8 living in the same co-op that I am living in.

9 A PROSPECTIVE JUROR: I live in Rochdale.

10 THE COURT: What do you know about me.

11 A PROSPECTIVE JUROR: Well, I don't know
12 anything personal. I just know.

13 THE COURT: You know the name. You know
14 I am on the board of that development. And is there
15 anything that you find that you heard about me or
16 anything that makes you feel that you could not be
17 fair to both sides.

18 A PROSPECTIVE JUROR: No because if I
19 know you. My mother -- I have other questions. My
20 mother is 85 years old. I have to help with her.
21 She has a heart problem. She has epilepsy. I have
22 to be with her in the afternoons. She has seizures.

23 THE COURT: So you are saying that your
24 mother is 85 and she has seizures.

25 A PROSPECTIVE JUROR: No, she has a heart

1 problem and she has Alzheimers. I have someone who
2 helps with her sometimes in the afternoon to feed
3 her.

4 THE COURT: So you are a care giver to
5 your mother.

6 A PROSPECTIVE JUROR: I help. She has
7 seizures and when she comes in the afternoon
8 sometimes my father is at work and I have to stay
9 with her.

10 THE COURT: So there are a number of
11 things that you do for your family members your
12 mother included.

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: That takes up so much of
15 your time and energy.

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: That you do not know if you
18 will be able to devote that kind of energy to this
19 trial.

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Those things that you are
22 doing are things that your family members rely on
23 you to do.

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: Consent.

1 MR. JOHNSTON: Yes.

2 MS. MALIK: Yes.

3 THE COURT: I will excuse you.

4 A PROSPECTIVE JUROR: Thank you.

5 THE COURT: She is excused.

6 (Whereupon, a side-bar record concludes.)

7 COURT CLERK: Juror number 2 Andrea
8 Mentar. Last name M-E-N-T-A-R. First name Andrea,
9 A-N-D-R-E-A.

10 THE COURT: Good afternoon Ms. Mentar.

11 Same questions. You are over 18 year old. Resident
12 of Queens county. Citizen of this country.

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: Ever convicted of a felony.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: Read and understand and
17 speak English.

18 A PROSPECTIVE JUROR: Yes.

19 THE COURT: Do you know me, the ADA, the
20 defendant or defense counsel or any of our family or
21 friends.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Now to both yourself and Ms.
24 Battipaglia and Ms. Corker you heard me read from a
25 list of people who may testify in this trial do you

1 know anyone by those names.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Do you have any hearing
4 handicap or any other type of handicap or disability
5 that would prevent you from sitting as a juror to
6 the latest Friday March 30.

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Do you have a hardship that
9 would prevent you from giving your full attention to
10 this trial.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Any religious, moral or
13 ethical beliefs that would prevent you from finding
14 a person guilty and if that was proven to you beyond
15 a reasonable doubt.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: The defendant has a right
18 not to testify. If you are chosen as a juror if he
19 chooses not to testify would you each be able to
20 follow my instructions and not draw any inference
21 unfavorable to him because he chose not to testify.

22 THE COURT: Ms. Corker.

23 A PROSPECTIVE JUROR: Can I come speak to
24 you.

25 (Whereupon, a side-bar record begins.)

1 THE COURT: Yes.

2 A PROSPECTIVE JUROR: When you were giving
3 the charges out my body reacted. I was raped by my
4 uncle. I have a niece who was mugged and almost
5 raped and in therapy for years. I served as a juror
6 for a number of years. I did 2 civil and I was
7 sequestered.

8 THE COURT: Okay. I understand that.

9 Given your personal background and given what almost
10 happened to a niece of yours and the crime charged
11 is too close to home for you to be able to be fair
12 to both sides.

13 A PROSPECTIVE JUROR: I cannot even look
14 at the man. I don't know what he looks like.

15 MR. JOHNSTON: Consent.

16 MS. MALIK: Consent.

17 THE COURT: She is excused.

18 (Whereupon, a side-bar record concludes.)

19 COURT CLERK: Juror number 13, Francis
20 Clark. Last name Clark, C-L-A-R-K. First name
21 Francis. FRANCIS.

22 THE COURT: Good afternoon Mr. Clark.

23 A PROSPECTIVE JUROR: Hi.

24 THE COURT: Are you over 18 years old.
25 Resident of Queens county. Citizen of this country.

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: Ever convicted of a felony.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Are you able to read,
5 understand and speak English.

6 A PROSPECTIVE JUROR: Yes.

7 THE COURT: Do you know me, the ADA,
8 defense counsel, the defendant or any of our family
9 or friends.

10 A PROSPECTIVE JUROR: No.

11 THE COURT: You heard me read from a
12 list of people who may testify in this trial do you
13 know anyone by those names.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Do you have a hearing
16 handicap or any other type of handicap or disability
17 that would prevent you from sitting as a jurors.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Do you have an extreme
20 hardship that would prevent you from giving your
21 full attention to this trial.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Do you have any religious,
24 moral or ethical beliefs or reasons that would
25 prevent you from finding a person guilty even if it

1 was proven to you beyond a reasonable doubt.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: The defendant has a right
4 not to testify. If you are chosen as a juror if he
5 chooses not to testify would you be able to follow
6 my instructions and not draw any inference
7 unfavorable to him because he chose not to testify.

8 A PROSPECTIVE JUROR: Yes.

9 THE COURT: Would both yourself and to
10 Ms. Mentar and Ms. Battipaglia with reference to a
11 single witness if you believe a single witness to a
12 crime beyond a reasonable doubt can you convict.

13 A PROSPECTIVE JUROR: Yes.

14 A PROSPECTIVE JUROR: If I believe it.

15 THE COURT: If you believe beyond a
16 reasonable doubt.

17 A PROSPECTIVE JUROR: Yes.

18 THE COURT: And is there anything about
19 the nature of these charges that the defendant is
20 facing meaning that it's a sexual offense. It's
21 charged that it's against a minor, a young girl.
22 And the fact that it's an adult there anything about
23 the nature of the crime charged that makes you feel
24 that you could not be fair to both sides in this
25 case.

1 A PROSPECTIVE JUROR: Can I discuss that
2 with you.

3 THE COURT: Yes.

4 (Whereupon, a side-bar record begins.)

5 A PROSPECTIVE JUROR: My niece when she
6 was 10 years old her stepfather when she was alone
7 in the house was watching porno movies. And I don't
8 know if I could be you know objective.

9 THE COURT: He had not touched her.

10 A PROSPECTIVE JUROR: He did not touch
11 her. She called me up on the phone. She was
12 crying. I told her to get out the house.

13 THE COURT: That's a relative.

14 A PROSPECTIVE JUROR: My niece. She was
15 my niece and that was her step father.

16 THE COURT: So you may find the facts of
17 this case too similar to him.

18 A PROSPECTIVE JUROR: Yes it turns me. I
19 just don't like anything about this type of crime.

20 THE COURT: Consent.

21 MR. JOHNSTON: Yes.

22 MS. MALIK: Yes.

23 THE COURT: Thank you. I will excuse
24 me.

25 (Whereupon, a side-bar record concludes.)

1 COURT CLERK: Juror number 9 Lian King.

2 Last name King. K-I-N-G. First name Lian.

3 L-I-A-N.

4 THE COURT: Good afternoon Mr. King.

5 A PROSPECTIVE JUROR: Hi.

6 THE COURT: Are you over 18 years old.

7 Resident of Queens county. Citizen of this country.

8 A PROSPECTIVE JUROR: Yes.

9 THE COURT: Every been convicted of a
10 felony.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Any problem with speaking or
13 understanding English.

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: Do you know me, the DA,
16 defense counsel, the defendant or to your knowledge
17 know any of our family or friends.

18 A PROSPECTIVE JUROR: I don't.

19 THE COURT: You heard me read from a list
20 of people who may testify in this trial. Do you
21 know any of those names.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Do you have any hearing
24 handicap or any other type of handicap that would
25 prevent you from being a juror.

1 A PROSPECTIVE JUROR: No.

2 THE COURT: Do you have an extreme
3 hardship or other pressing matter that would prevent
4 you from giving your full attention to this trial.

5 A PROSPECTIVE JUROR: Tomorrow night.

6 THE COURT: A flight ticket purchased.

7 A PROSPECTIVE JUROR: Yes. Purchased.

8 THE COURT: You are so gone. So out of
9 here. Consent.

10 MR. JOHNSTON: Yes.

11 MS. MALIK: Yes.

12 THE COURT: Thank you Mr. King I will
13 excuse you.

14 COURT CLERK: Juror number 9 Adriana
15 Santos. Last name Santos. SANTOS. First name
16 Adriana. A-D-R-I-A-N-A.

17 THE COURT: Good afternoon Ms. Santos. It
18 seems that you were happy that your name and number
19 was finally called. Are you over 18 years old. A
20 resident of Queens county and a citizen of this
21 country.

22 A PROSPECTIVE JUROR: Yes.

23 THE COURT: Ever convicted of a felony.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Any problem speaking or

1 understanding English.

2 A PROSPECTIVE JUROR: Absolutely not.

3 THE COURT: Do you know me, the DA,
4 defense counsel or the defendant to your knowledge
5 any of our family or friends.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: You heard the names of people
8 mentioned. Do you know any of those names.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: Do you have any hearing
11 handicap or any other type of handicap or disability
12 that would prevent you from serving as a juror.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Do you have any extreme
15 hardship or other pressing matter that would prevent
16 you from serving on this jury.

17 A PROSPECTIVE JUROR: Inconvenience
18 that's it.

19 THE COURT: Minor stuff.

20 THE COURT: Do you have any religious,
21 moral or ethical reasons that would prevent you
22 from finding a person guilty even if it was proven
23 beyond a reasonable doubt.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Do you understand that the

1 defendant if you are chosen as a juror if he chooses
2 not to testify that you follow my instructions and
3 not draw any inference unfavorable to him because he
4 chooses not to testify.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: On the question of a single
7 witness if you believe a single witness to a crime
8 beyond a reasonable doubt can you convict.

9 A PROSPECTIVE JUROR: Yes.

10 THE COURT: Finally is there anything
11 about the nature of the crimes charged meaning that
12 it's a sexual offense involving a minor female child
13 with the defendant being an adult male is there
14 anything about the nature of the crime charged that
15 makes you feel that you cannot be fair to both
16 sides.

17 A PROSPECTIVE JUROR: Yes.

18 THE COURT: Yes you can be.

19 MR. JOHNSTON: No I cannot be.

20 THE COURT: You were doing so well. That
21 is something you thought about as the questions were
22 asked of others and searched yourself.

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: Counsel consent.

25 MR. JOHNSTON: Yes.

1 MS. MALIK: Yes.

2 THE COURT: Thank you.

3 COURT CLERK: Juror number 9 Salini

4 Sharma. Last name Sharma. S-H-A-R-M-A. First name
5 Salina. S-A-L-I-N-A.

6 THE COURT: Now Ms. Sharma good
7 afternoon. Before I take you through all of the
8 questions I will ask whether or not based on the
9 questions that you have heard so far is there
10 anything that you wish to tell me.

11 A PROSPECTIVE JUROR: Yes.

12 (Whereupon, a side-bar record begins.)

13 A PROSPECTIVE JUROR: Good afternoon. I
14 was raped at 17.

15 THE COURT: A relative or a stranger.

16 A PROSPECTIVE JUROR: Somebody that I
17 knew.

18 THE COURT: Was he prosecuted.

19 A PROSPECTIVE JUROR: Back home in my
20 country.

21 THE COURT: So given that fact you don't
22 think that you can be fair to both sides.

23 A PROSPECTIVE JUROR: I don't think so.

24 THE COURT: Any questions.

25 MR. JOHNSTON: Consent.

1 MS. MALIK: No.

2 THE COURT: I will excuse you. Thank
3 you for your candor.

4 (Whereupon, a side-bar record concludes.)

5 THE COURT: Excuse excused.

6 COURT CLERK: Juror number 9 Shang Hu.

7 Last name, H-U . First name Shang. S-H-A-N-G.

8 THE COURT: Good afternoon.

9 A PROSPECTIVE JUROR: Good afternoon.

10 THE COURT: Now Ma'am are you able to
11 read and understand English.

12 A PROSPECTIVE JUROR: Understand a little
13 bits.

14 THE COURT: Yes.

15 THE COURT: Consent.

16 MR. JOHNSTON: Yes.

17 MS. MALIK: Yes.

18 THE COURT: I will excuse you.

19 COURT CLERK: Juror number 9 Martha
20 Cervantes. Last name, C-E-R-V-A-N-T-E-S. First
21 name Martha, M-A-R-T-H-A.

22 THE COURT: Good afternoon Ms. Cervantes.
23 Ma'am as you have seen there are a number of people
24 who did not want to sit in that seat you know. But
25 I have a sense that you want to claim that seat as

1 yours. So let me start by -- before I go through
2 every question with you is there anything about any
3 of the questions that I have said so far that you
4 have learned that you would have any difficulty
5 with.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: All right. Lets go from the
8 top Ma'am. Are you over 18. Resident of Queens
9 county. Citizen of this country.

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Ever convicted of a felony.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: Are you able to speak and
14 understand English.

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Do you know me, the DA,
17 defense counsel or the defendant or to your
18 knowledge know any of our family or friends.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: You heard me read from a
21 list of people who may testify at this trial do you
22 know any of those names.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Do you have any hearing
25 handicap or any handicap that would prevent you from

1 sitting as a juror.

2 A PROSPECTIVE JUROR: No.

3 THE WITNESS: Any extreme hardship that
4 would prevent you from sitting as a juror.

5 A PROSPECTIVE JUROR: No.

6 THE COURT: Do you have any religious,
7 moral or ethical belief or reasons that would
8 prevent you from finding a person guilty even if it
9 was proven to you beyond a reasonable doubt.

10 A PROSPECTIVE JUROR: No.

11 THE COURT: If you are chosen as a juror
12 and the defendant chooses not to testify you would
13 be able to follow my instructions and not draw any
14 inference unfavorable to him.

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Would you believe a single
17 witness to a crime beyond a reasonable doubt can you
18 convict.

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: Finally is there anything
21 about the nature of the crime charged meaning that
22 it's a sexual offense involving a young girl with
23 the defendant being an adult male is there anything
24 about the nature of the charge that makes you feel
25 that you could not be fair to both sides in this

1 case.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Thank you for those answers.

4 And with those answers I will excuse the entire
5 panel for the balance of the day. We will begin with
6 the questionnaire tomorrow morning. Have a great
7 day. See you tomorrow morning at 10 AM .

8 (Jurors exit the courtroom)

9 THE COURT: Anything further.

10 MS. MALIK: No your Honor.

11 MR. JOHNSTON: No your Honor.

12 THE COURT: See you tomorrow morning.

13 (Whereupon court stands in recess until
14 tomorrow March 21, 2007).

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1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF QUEENS: CRIMINAL TERM: Part K-20
3 -----x Indictment No.
THE PEOPLE OF THE STATE OF NEW YORK : 2147/2006

15 A P P E A R A N C E S:

16 Honorable Richard A. Brown
17 For the People:
18 District Attorney - Queens County
19 125-01 Queens Boulevard
Kew Gardens, New York 11415
BY: MINA MALIK, ESQ.
Assistant District Attorney

21 For the Defendant:
ROBERT JOHNSTON, ESQ.
Defense Counsel

24 Viola L. Dunnom, SCB

1 COURT CLERK: Case on trial. Indictment
2 2147 of 06. Abu Khan.

3 MS. MALIK: Mina Malik for the People.

4 MR. JOHNSTON: Robert Johnston and Samuel
5 Viruet for the defense.

6 COURT CLERK: The defendant is present
7 and produced from the pens.

8 MS. MALIK: Good morning your Honor.

9 MR. JOHNSTON: Good morning judge.

10 MR. VIRUET: Good morning judge.

11 Co-counsel for Mr. Khan.

12 THE COURT: Good morning to you also Mr.
13 Khan. Prior to the panel being brought in anything
14 that needs to be discussed or are we ready to go
15 forward.

16 MS. MALIK: No your Honor.

17 MS. MALIK: Actually, your Honor, can we
18 approach for a moment.

19 THE COURT: Sure.

20 (Whereupon, an off the record discussion
21 was held at the bench.)

22 COURT OFFICER: Panel entering.

23 COURT CLERK: Both sides stipulate that
24 the prospective panel is present and seated in their
25 assigned seats.

1 MS. MALIK: Yes.

2 MR. JOHNSTON: Yes.

3 THE COURT: Good morning again.

4 A PROSPECTIVE JUROR: Good morning.

5 THE COURT: This morning we will start
6 with the questionnaire and starting with Mr.

7 Forsyth, 1 please.

8 A PROSPECTIVE JUROR: Eugene Forsyth.

9 THE COURT: If you would keep your voice
10 up.

11 A PROSPECTIVE JUROR: New York city.

12 Flushing. 30 years. All my life. Single.

13 Masters.

14 THE COURT: In what subject.

15 A PROSPECTIVE JUROR: Chemistry.

16 Environmental Science.

17 THE COURT: Number 8.

18 A PROSPECTIVE JUROR: Retired teacher.

19 THE COURT: What level students do you
20 teach.

21 A PROSPECTIVE JUROR: Juniors mostly high
22 school.

23 THE COURT: And what subject did you
24 teach I imagine maybe chemistry.

25 A PROSPECTIVE JUROR: Yes. General

1 science. Some math.

2 THE COURT: How many years had you been
3 a teacher.

4 A PROSPECTIVE JUROR: 30 all together.

5 THE COURT: And how many years now have
6 you been retired.

7 A PROSPECTIVE JUROR: 4 years retired.

8 THE COURT: Enjoying that time retired.

9 A PROSPECTIVE JUROR: Not as much as I
10 hoped.

11 THE COURT: I know from our earlier brief
12 conversation that you like to travel or do travel
13 and so your frequent flier miles are up and able to
14 be used.

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Any children of working age.

17 A PROSPECTIVE JUROR: No.

18 THE COURT: 9.

19 A PROSPECTIVE JUROR: No.

20 THE COURT: 10.

21 A PROSPECTIVE JUROR: Criminal.

22 THE COURT: 10 is yes.

23 A PROSPECTIVE JUROR: Yes. Criminal.

24 THE COURT: One or more times.

25 A PROSPECTIVE JUROR: 1976 or so.

1 THE COURT: What was the charge in that
2 case.

3 A PROSPECTIVE JUROR: I don't recall.

4 Well, as I recall the man jumped a security gate at
5 one of the New York airports with a gun.

6 THE COURT: 10 B.

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: C.

9 A PROSPECTIVE JUROR: 1999.

10 THE COURT: 11 A.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: B.

13 A PROSPECTIVE JUROR: No no, no, no.

14 THE COURT: 12 A.

15 A PROSPECTIVE JUROR: Myself for 6 months
16 as a civilian with NYPD.

17 THE COURT: Any other answers to 12 A.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: 12 B.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: C.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: D.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: 13.

1 A PROSPECTIVE JUROR: No.

2 THE COURT: 14.

3 A PROSPECTIVE JUROR: Yes.

4 THE COURT: 15.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: 16.

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: 17.

9 A PROSPECTIVE JUROR: Yes.

10 THE COURT: 18.

11 A PROSPECTIVE JUROR: Yes, well only
12 because I mention the flight.

13 THE COURT: Okay. Do you feel that is
14 still a problem or do you think that.

15 A PROSPECTIVE JUROR: In terms of my
16 rendering a decision no.

17 THE COURT: Thank you sir. Ms. Mentar.

18 A PROSPECTIVE JUROR: Andrea Mentar.

19 Aruba. Kew Gardens. 8 years, 42. Divorced. BA.

20 THE COURT: What subject.

21 A PROSPECTIVE JUROR: Business
22 Administration.

23 A PROSPECTIVE JUROR: Case manager for
24 the City of New York.

25 THE COURT: And what kinds of cases do you

1 manage.

2 A PROSPECTIVE JUROR: Provide services
3 for the elderly, mentally and physically challenged.

4 THE COURT: You have been doing that for
5 how long.

6 A PROSPECTIVE JUROR: 16 years.

7 THE COURT: In the course of the kind of
8 work that you do how many cases do you manage at any
9 given time.

10 A PROSPECTIVE JUROR: It varies monthly.
11 But the total case load is over 300.

12 THE COURT: And you have in that case
13 load of 300 cases you have some who are elderly and
14 disabled. You have a mix of.

15 A PROSPECTIVE JUROR: It's a mix. The
16 majority would be geriatric.

17 THE COURT: I know that you said that you
18 are divorced. What does your ex-husband do.

19 A PROSPECTIVE JUROR: Advertising.

20 THE COURT: Number 9.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: 10.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: 11 A.

25 A PROSPECTIVE JUROR: No.

1 THE COURT: B.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: C.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: D.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: E.

8 A PROSPECTIVE JUROR: No.

9 THE COURT: 11 F.

10 A PROSPECTIVE JUROR: No.

11 THE COURT: 12 A.

12 A PROSPECTIVE JUROR: Sorry, I missed
13 that can I come up.

14 THE COURT: Sure.

15 (Whereupon, a side-bar record begins.)

16 A PROSPECTIVE JUROR: I do have a cousin
17 that was in jail for rape.

18 THE COURT: In jail where.

19 A PROSPECTIVE JUROR: Clinton
20 Correctional Facility.

21 THE COURT: So the crime happened here
22 in the states.

23 A PROSPECTIVE JUROR: Yes it was actually
24 in Queens county.

25 THE COURT: First cousin.

1 A PROSPECTIVE JUROR: Yes. It's my
2 mothers sisters son.

3 THE COURT: Is he someone that you
4 associate with often.

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: How close were you.

7 A PROSPECTIVE JUROR: Well, we are all
8 cousins. He was a younger cousin that we played with
9 or visited frequently.

10 THE COURT: He was found guilty after
11 trial and arrested in Queens county. Indicted in
12 Queens county. Prosecuted in court.

13 A PROSPECTIVE JUROR: He did not have a
14 trial. He pled guilty.

15 THE COURT: The victim in that case was it
16 another adult.

17 A PROSPECTIVE JUROR: Yes.

18 THE COURT: What do you think about the
19 process being involved.

20 A PROSPECTIVE JUROR: Whatever happened
21 to him. The police arrested him. And that was it.
22 He pled guilty. He went to jail.

23 THE COURT: Is there anything about him
24 having gone through that process that and that he
25 being arrested in Queens, indicted by the Queens DA

1 office handled by this court building anything about
2 any of that, his involvement in the process that
3 makes you feel that you could not be fair.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: You can be fair.

6 A PROSPECTIVE JUROR: Yes.

7 THE COURT: Any comments.

8 MR. JOHNSTON: No.

9 MS. MALIK: No.

10 THE COURT: Since you are here I might as
11 well finish asking the balance of the questions. So
12 the answer that you just gave is an answer to 11 C.

13 And D.

14 A PROSPECTIVE JUROR: Right.

15 THE COURT: Any other answers to that.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: 11 E.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: F.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: 12 A.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: B.

24 A PROSPECTIVE JUROR: No. No.

25 THE COURT: 13.

1 A PROSPECTIVE JUROR: No.

2 THE COURT: 16.

3 A PROSPECTIVE JUROR: Yes.

4 THE COURT: 15.

5 A PROSPECTIVE JUROR: Yes, yes, yes, no.

6 THE COURT: The matter involving your
7 cousin was it -- had it been in the press.

8 A PROSPECTIVE JUROR: Yes.

9 THE COURT: It was covered heavily in
10 the newspapers.

11 A PROSPECTIVE JUROR: I remember I did
12 not know that it was his picture. That Friday and
13 that Sunday he was arrested.

14 THE COURT: Did your family suffer any --

15 A PROSPECTIVE JUROR: No.

16 THE COURT: -- difficulty with him having
17 been identified.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Was there a particular level
20 of violence connected to the crime a knife or a gun
21 or anything like that.

22 A PROSPECTIVE JUROR: I don't think so.

23 I think this was a first offense. He had never been
24 in any trouble.

25 MS. MALIK: If I may do you think that

1 justice was served in that case.

2 A PROSPECTIVE JUROR: Sure. He was
3 guilty.

4 MS. MALIK: You said that you were close
5 to him growing up what year did this happen.

6 A PROSPECTIVE JUROR: I think that he has
7 been in jail 10 years now.

8 MS. MALIK: So you were close to him I am
9 not sure hold old you are. Were you close to him
10 when you got in your adult life or just as kids.

11 A PROSPECTIVE JUROR: We were close. As
12 adults we saw each other.

13 MS. MALIK: Okay.

14 THE COURT: Thank you.

15 (Whereupon, a side-bar record concludes.)

16 THE COURT: And Ms. Trammell. Number one.

17 A PROSPECTIVE JUROR: Yolafda Trammell.

18 New York City. Far Rockaway 16 years. All my life.

19 Single. 12.

20 THE COURT: 8.

21 A PROSPECTIVE JUROR: Park and
22 Recreations.

23 THE COURT: What do you do.

24 A PROSPECTIVE JUROR: Maintain the parks.

25 THE COURT: You have been working with

1 the city for how long now.

2 A PROSPECTIVE JUROR: 6 months.

3 THE COURT: What kind of work had you
4 done before that.

5 A PROSPECTIVE JUROR: Medical secretary.

6 THE COURT: And in that position how long
7 had you worked in that field.

8 A PROSPECTIVE JUROR: 15 years.

9 THE COURT: Had you worked for the same
10 employer each of those 15 years.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: How long had you worked with
13 that most recent employer.

14 A PROSPECTIVE JUROR: 6 years.

15 THE COURT: Any children of working age.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Number 9.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: 10.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: 11 A.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: B.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: C.

1 A PROSPECTIVE JUROR: No.

2 THE COURT: D.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: E.

5 A PROSPECTIVE JUROR: No.

6 THE WITNESS: F.

7 A PROSPECTIVE JUROR: No.

8 THE COURT: So in the years in the time
9 that you have been working with the parks department
10 you have not seen any crimes in the parks
11 department.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: Crimes in the city parks.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: 12 A.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: B.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: C.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: D.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: 13.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: 14.

1 A PROSPECTIVE JUROR: Yes, yes, yes.

2 THE COURT: 18.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Mr. McLean.

5 A PROSPECTIVE JUROR: Can I have a
6 side-bar please.

7 (Whereupon, a side-bar record begins.)

8 A PROSPECTIVE JUROR: I don't think that
9 I can be fair in this case. I have -- do have 2
10 little sisters younger. And I have a mother that is
11 obsessive about that. She posts pictures on our
12 refrigerator every day.

13 THE COURT: Of pedophiles.

14 A PROSPECTIVE JUROR: Of pedophiles. I
15 can not afford to be here too. My job only pays for
16 a certain amount of days. I cannot do it. I got
17 bills.

18 THE COURT: What kind of work do you do.

19 A PROSPECTIVE JUROR: I work for an
20 advertising company. Block Advertisement.

21 THE COURT: How long have you been
22 working with them.

23 A PROSPECTIVE JUROR: 8 months now.

24 THE COURT: I understand. Consent.

25 MS. MALIK: Yes.

Voir Dire/The Court

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1 MR. JOHNSTON: Yes.

2 THE COURT: Thank you.

3 A PROSPECTIVE JUROR: Thank you.

4 THE COURT: He is excused.

5 (Whereupon, a side-bar record concludes.)

6 COURT CLERK: Seat number 4 Mohammad
7 Karim. Last name is K-A-R-I-M.

8 THE COURT: Okay moving forward and Mr.
9 Spainer number 1.

10 A PROSPECTIVE JUROR: Robert Spainer.

11 Ocean side, Long Island. Bayside. 10 years. All
12 my life. I am married but it's not recognized here
13 as a partner. High school. Auto motive biller.

14 THE COURT: As a biller are you working
15 for one of the major automotive companies.

16 MR. SPAINER: Yes.

17 THE COURT: You have been working with
18 them for how long now.

19 A PROSPECTIVE JUROR: 6 months.

20 THE COURT: Prior to working with them
21 what did you do.

22 A PROSPECTIVE JUROR: I was at a
23 different dealership for 4 years.

24 THE COURT: Doing similar type of work.

25 A PROSPECTIVE JUROR: No I was in sales.

1 THE COURT: Sales of cars.

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: What kind of work does your
4 partner do.

5 A PROSPECTIVE JUROR: He is in an
6 arbitration and mediation company.

7 THE COURT: He has been working with
8 them for how long.

9 A PROSPECTIVE JUROR: About 8 years.

10 THE COURT: Number 9.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: 10.

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: 10 A.

15 A PROSPECTIVE JUROR: It was a civil
16 case.

17 THE COURT: One or more times.

18 A PROSPECTIVE JUROR: One.

19 THE COURT: 10 B.

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: C.

22 A PROSPECTIVE JUROR: About 10 years.

23 THE COURT: 11 A.

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: Who and what kind of a crime.

1 A PROSPECTIVE JUROR: It was a car theft.

2 THE COURT: Anyone ever caught and charged
3 with the crime.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: It was here in Queens county.

6 A PROSPECTIVE JUROR: It was in Bayside.

7 THE COURT: Any other answers to 11 A.

8 A PROSPECTIVE JUROR: No.

9 THE COURT: 11 B.

10 A PROSPECTIVE JUROR: No.

11 THE COURT: C.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: D.

14 A PROSPECTIVE JUROR: No.

15 THE COURT: E.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: F.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: 12 A.

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Who works for what agency.

22 A PROSPECTIVE JUROR: My uncle was a
23 police officer. He died when I was very young.

24 THE COURT: Any other answers to that.

25 A PROSPECTIVE JUROR: No.

1 THE COURT: 12 B.

2 A PROSPECTIVE JUROR: No.

3 THE COURT: C.

4 A PROSPECTIVE JUROR: No.

5 THE COURT: D.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: 13.

8 A PROSPECTIVE JUROR: No.

9 THE COURT: 14.

10 A PROSPECTIVE JUROR: Yes, yes, yes.

11 THE COURT: 18.

12 A PROSPECTIVE JUROR: No.

13 THE COURT: Thank you sir. Mr.

14 Berthelly.

15 A PROSPECTIVE JUROR: Daniel Berthelly.

16 New York City. Ozone Park. 4 years. All my life.

17 Single. Bachelors in Social Science.

18 THE COURT: Number 8.

19 A PROSPECTIVE JUROR: Department manager

20 in College Point Kinkos.

21 THE COURT: You have been working with

22 them for how long.

23 A PROSPECTIVE JUROR: 3 months now.

24 THE COURT: How many months have you been

25 a manager.

1 A PROSPECTIVE JUROR: 3 months. I worked
2 prior as a manager at Target.

3 THE COURT: And you said that you have
4 been working with Home Depot for how long.

5 A PROSPECTIVE JUROR: 10 month.

6 THE COURT: How long were you with
7 Target.

8 A PROSPECTIVE JUROR: 3 months and CVS
9 for 7 years.

10 THE COURT: The drugstore chain.

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: Number 9.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: 10.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: 11 A.

17 A PROSPECTIVE JUROR: Yes can I speak to
18 you too in private.

19 (Whereupon, a side-bar record begins.)

20 THE COURT: Yes.

21 A PROSPECTIVE JUROR: I don't know if
22 this is going to effect any thing. My mother was
23 raped and I have a cousin that was raped as well.

24 THE COURT: How old were you at the time
25 that your mother.

1 A PROSPECTIVE JUROR: My mother was raped
2 it was before I was born. My friend was raped when
3 she was 19.

4 THE COURT: How old did your mom tell you
5 she was.

6 A PROSPECTIVE JUROR: She is young age. 8
7 or 9.

8 THE COURT: Did she tell you whether or
9 not the person that raped her was a relative or a
10 stranger.

11 A PROSPECTIVE JUROR: It was one of her
12 friends actually. It happened in her country.

13 THE COURT: Your friend was raped when she
14 was 19.

15 A PROSPECTIVE JUROR: 18 or 19. The
16 gentleman was charged and sentenced I believe to 3
17 or 4 years something like that.

18 THE COURT: Did you know her at the time
19 that she was going through this.

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Was there a process of
22 having an arrest, he being indicted, coming to court
23 and a full resolution of this case.

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: How did she handle the

1 process.

2 A PROSPECTIVE JUROR: Well the thing is
3 that I was there for her during that time but the
4 whole process I mean I really do not know specifics.
5 It was like 6 years ago.

6 THE COURT: And as important and for our
7 purpose and you being here how did you handle being
8 with her.

9 A PROSPECTIVE JUROR: I was very
10 effected. It was a tough time.

11 THE COURT: Now while it's something that
12 you will always remember we need to know if you
13 could set that aside and give this case a fair
14 trial.

15 A PROSPECTIVE JUROR: I don't know. I
16 really do not know. I will try. This is why I sat
17 here this long. I don't know.

18 THE COURT: Any questions.

19 MS. MALIK: You recognize that what
20 happened to your mother and I am sorry that happened
21 to your mother. You recognize that what happened to
22 her and your friend are separate and apart from this
23 case. And you have to judge this case on the facts
24 and the evidence that come out in this trial.

25 Knowing that can you give this guy a fair trial.

1 A PROSPECTIVE JUROR: I will try.

2 MS. MALIK: Can you absolutely say yes.

3 A PROSPECTIVE JUROR: Not 100 percent. I
4 will try.

5 THE COURT: We understand and appreciate
6 that and we are absolutely sure that you will try as
7 best that you can but instead we need the kind of
8 assurance that you are being honest. This is
9 probably the wrong kind of case for you to give that
10 kind of assurance. And I am -- I am actually
11 saying it wondering whether or not if I am
12 understanding you correctly.

13 If I am misstating something correct me.
14 I am hearing you want to do your civic duty you are
15 a responsible young man who understands the
16 responsibility of being a juror. Also responsible
17 in you telling us candidly you know what your limits
18 are so what I will do is that I will excuse you from
19 this trial. And know that you can sit on any other
20 case except this charge. Thank you for your candor.

21 (Whereupon, a side-bar record concludes.)

22 THE COURT: He is excused.

23 COURT CLERK: Seat number 6 first name
24 Yoginder Vohra. Last name V-O-H-R-A. First name
25 Yoginder, Y-O-G-I-N-D-E-R.

1 THE COURT: Okay. Moving forward. Ms.
2 Wieland, number 1.

3 A PROSPECTIVE JUROR: Jennifer Wieland.
4 Brooklyn. Sunnyside, Queens. 4 years. Entire life.
5 Single. Bachelors in Communicative Disorders. I am
6 also board certified.

7 THE COURT: Number 8.

8 A PROSPECTIVE JUROR: I work for the
9 Queens Library as a health literacy teacher. I am
10 also a health counselor and wellness coach.

11 THE COURT: Is there any of those one
12 positions that you are doing full time.

13 A PROSPECTIVE JUROR: It's the same
14 thing. I am certified as a health counselor. I just
15 working in different areas.

16 THE COURT: So for the public library is
17 that a full time position with them or part time.

18 A PROSPECTIVE JUROR: It's part time with
19 the library.

20 THE COURT: And in the field that you are
21 board certified that is again holistic.

22 A PROSPECTIVE JUROR: Holistic health
23 counselor.

24 THE COURT: What is it that you do for
25 your clients/patients in that area.

1 A PROSPECTIVE JUROR: Most clients for
2 nutritional needs. Health problems. I study instead
3 of just the regular food pyramid additional food
4 theory. It's get healthier faster. Also a wellness
5 coach. That is also another area
6 relationship/career.

7 THE COURT: You have been doing that kind
8 of work for how long now.

9 A PROSPECTIVE JUROR: 2 years.

10 THE COURT: How do you identify the
11 clients that you work with.

12 A PROSPECTIVE JUROR: How do I identify.

13 THE COURT: Meaning is yours a professor
14 or a field of practice that you have business cards
15 not that I am looking for it right now. How does
16 one contact you and seek your advice.

17 A PROSPECTIVE JUROR: I do have a
18 business card. I suppose they contact me. I do
19 workshops. As you would contact a nutritionist. I
20 work through a chiropractor to whom I get referrals.

21 THE COURT: Number 9.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: 10.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: 11 A.

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: Who and what kind of a
3 crime.

4 A PROSPECTIVE JUROR: I had my purse
5 stolen twice. Wallet stolen. When I was a child my
6 apartment was broken into a couple of times.

7 THE COURT: Anyone home at the time your
8 home was broken into.

9 A PROSPECTIVE JUROR: No we were home. I
10 think one time maybe a burglar was going out the
11 window while we were coming in when I was a child.

12 THE COURT: Any other answers to 11 A.

13 A PROSPECTIVE JUROR: My mother had her
14 chain pulled off her. She was coming home from work
15 on the train.

16 THE COURT: 11 B.

17 A PROSPECTIVE JUROR: I was raised in
18 Brooklyn.

19 THE COURT: In any of those crimes anyone
20 ever arrested and charged.

21 A PROSPECTIVE JUROR: No.

22 THE COURT: And these crimes are all in
23 Brooklyn.

24 A PROSPECTIVE JUROR: No I had my purse
25 stolen once in Brooklyn and once in Elmhurst just 6

1 months ago.

2 THE COURT: Any other answers to 11 A.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Some of what you had
5 described as an answer to 11 B. Any other answers
6 to 11 B.

7 A PROSPECTIVE JUROR: No.

8 THE COURT: C.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: D. No. No. No.

11 THE COURT: 12 A.

12 A PROSPECTIVE JUROR: I was an EMT I
13 worked on an ambulance for 4 years. I know a lot of
14 police officers.

15 THE COURT: So there was a time in your
16 experience that you also worked as an EMT tech.

17 A PROSPECTIVE JUROR: Yes.

18 THE COURT: And you said that you were
19 working as and EMT for 4 years.

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Any other answers to 12 A.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: B.

24 A PROSPECTIVE JUROR: My best friend is a
25 clerk in a law firm.

1 THE COURT: Any idea as to what kind of
2 work that friend does for the law firm. What does
3 he or she do as a clerk.

4 A PROSPECTIVE JUROR: Yes, she just
5 assists the attorneys.

6 THE COURT: 12 C.

7 A PROSPECTIVE JUROR: No, no.

8 THE COURT: 13.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: 14.

11 A PROSPECTIVE JUROR: Yes, yes, yes.

12 THE COURT: 18.

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Ms. Medins.

15 A PROSPECTIVE JUROR: Angelita Medins.

16 Philippines. Forest Hills. 8 years. 20 years.

17 Married. Associates degree Computer Operator No.

18 I am sorry. Computer IT support.

19 THE COURT: And what kind of agency or
20 company are you working with.

21 A PROSPECTIVE JUROR: Advertising agency.

22 THE COURT: How long.

23 A PROSPECTIVE JUROR: 12 years.

24 THE COURT: Did you say that you are
25 married.

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: What does your husband do.

3 A PROSPECTIVE JUROR: Computer
4 networking.

5 THE COURT: And he has been doing that for
6 how long now.

7 A PROSPECTIVE JUROR: 12 years.

8 THE COURT: Is he in his own business or
9 does he work for someone.

10 A PROSPECTIVE JUROR: He works for
11 someone.

12 THE COURT: How long has he worked with
13 them.

14 A PROSPECTIVE JUROR: I would say less
15 than a year.

16 THE COURT: But he has been in the field
17 for 12 years.

18 A PROSPECTIVE JUROR: Yes.

19 THE COURT: Number 9.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: 10.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: 11 A.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: B.

1 A PROSPECTIVE JUROR: No.
2 THE COURT: C.
3 A PROSPECTIVE JUROR: No.
4 THE COURT: D.
5 A PROSPECTIVE JUROR: No.
6 THE COURT: E.
7 A PROSPECTIVE JUROR: No.
8 THE COURT: F.
9 A PROSPECTIVE JUROR: No.
10 THE COURT: 12 A.
11 A PROSPECTIVE JUROR: Yes, a brother in
12 law is a New York police officer.
13 THE COURT: So your husband's brother.
14 A PROSPECTIVE JUROR: My husband's
15 sisters husband.
16 THE COURT: Any other answers to 12 A.
17 A PROSPECTIVE JUROR: No.
18 THE COURT: B.
19 A PROSPECTIVE JUROR: Yes a cousin who
20 works in a law firm.
21 THE COURT: Any idea as to what he or
22 she does.
23 A PROSPECTIVE JUROR: Clerical.
24 THE COURT: C.
25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: Who has had what.

2 A PROSPECTIVE JUROR: A cousin graduated
3 from school last year.

4 THE COURT: And any idea as to what kind
5 of law that cousin is practicing.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: Maybe the same answers to 12
8 D.

9 A PROSPECTIVE JUROR: No.

10 THE COURT: 13.

11 A PROSPECTIVE JUROR: No.

12 THE COURT: 14.

13 A PROSPECTIVE JUROR: Yes, yes, yes, yes.

14 THE COURT: 18.

15 A PROSPECTIVE JUROR: No.

16 THE COURT: Thank you Ms. Cervantes.

17 A PROSPECTIVE JUROR: Martha Cervantes.

18 Peru. Flushing. Corona. 12 years. 27 years.

19 Married. 2 years of college. I work in a
20 manufacturing company. I am the junior officer. I
21 have been doing that for 18 years.

22 THE COURT: What do you do for them as the
23 junior credit officer.

24 A PROSPECTIVE JUROR: I refund and give
25 credit to customers for returned merchandise.

1 THE COURT: What kind of work does your
2 husband do.

3 A PROSPECTIVE JUROR: He is a time keeper
4 and security.

5 THE COURT: For what kind of company.

6 A PROSPECTIVE JUROR: A university.

7 THE COURT: He has been doing that for
8 how long.

9 A PROSPECTIVE JUROR: On and off for
10 about 8 years.

11 THE COURT: Any children of working age.

12 A PROSPECTIVE JUROR: I have a daughter
13 recently moved to Carolina. She is an associates
14 worker.

15 THE COURT: Number 9.

16 A PROSPECTIVE JUROR: No.

17 THE COURT: 10.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: 11 A.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: B.

22 A PROSPECTIVE JUROR: No. No. No. No.

23 THE COURT: 12 A.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: B.